U.S. Department of Commerce

Environmental Management Manual

January 15, 2009

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EXECUTIVE SUMMARY

HISTORY. The *Environmental Management Manual* (the Manual), prepared in accordance with Departmental Administrative Order (DAO) 200-0, replaces DAO 216-11, Floodplain Management and Protection of Wetlands; DAO 216-17: Compliance with Environmental Pollution Standards; and DAO 216-6, Implementing the National Environmental Policy Act.

SUMMARY. This Manual describes the Department of Commerce's (DOC's) environmental management and compliance program and assists the DOC in achieving environmental compliance thereby protecting human health, property and the environment. The DOC must consider the environmental implications of its operations. For example, the National Oceanic and Atmospheric Administration (NOAA) operates facilities, ships, and aircraft requiring environmental stewardship and compliance with international, Federal, state, and local regulations. The DOC, through its various Operating Units, leases and owns facilities nationwide and must execute its mission in an environmentally responsible manner.

APPLICABILITY. This Manual applies to Departmental Offices and Operating Units. It also applies to tenants, such as other Federal agencies, contractor activities, and lessees providing direct support to the DOC and located on real property within the DOC's jurisdiction. Contracts to operate Government-owned facilities for the DOC must reference this Manual and designate by specific citation the applicable provisions. DOC entities conducting operations in foreign countries must also comply with this Manual.

PROPONENT AND EXCEPTION AUTHORITY. The Secretary of Commerce is the proponent of this Manual. The Chief Financial Officer/Assistant Secretary for Administration has the authority to approve waivers to this Manual that are consistent with law or regulation.

SUPPLEMENTATION. Supplementation to this Manual and establishment of local forms by Departmental Offices and Operating Units are prohibited without prior approval from the Chief Financial Officer/Assistant Secretary for Administration. The requirements of such supplements and forms must be consistent with, and no less stringent than, the requirements in this Manual.

SUGGESTED IMPROVEMENTS. Users are invited to send comments and suggested improvements to the Department of Commerce, Energy, Safety, and Environment Division, Room 1036, 1401 Constitution Avenue, NW, Washington, DC 20230.

DISTRIBUTION. This Manual will be distributed throughout the DOC in an effort to enhance the performance of the DOC's environmental management and compliance programs.

INTRODUCTION

SECTION 1. PURPOSE

.01 This Manual describes the DOC's energy and environmental management and compliance programs, policies and objectives. The DOC is committed to managing an efficient, effective and customer-oriented program focused on energy conservation and on environmental stewardship supported by the four pillars of environmental management:

a. Compliance: The DOC shall comply with all Federal, state and local environmental laws, regulations, and Executive Orders.

b. Pollution Prevention: The DOC's goal is to prevent and reduce the volume and/or toxicity of pollution at the source.

c. Conservation: The DOC shall manage the controlled use and the systematic protection of natural resources.

d. Restoration: The DOC encourages the return of previously contaminated sites to their original state or as determined by applicable Federal, state or local authorities, laws, or regulations.

.02 This Manual provides an overview of the energy and environmental programs, policies, objectives, and major program requirements and procedures, and delineates the DOC's roles and responsibilities. This Manual summarizes the major energy and environmental program requirements. It does not provide a complete listing of all provisions, or detailed guidance on complying with environmental laws, regulations, and Executive Orders. This Manual supplements Federal laws, regulations, and Executive Orders for preserving, protecting, and restoring the quality of the environment.

SECTION 2. BACKGROUND

.01 Federal facilities, similar to commercial entities, must comply with all Federal, state and local environmental laws and regulations. The DOC strives to develop sound environmental management programs to ensure long-term compliance with environmental requirements. The DOC's environmental management and compliance programs are expected to manage people and systems, with a focus on environmental compliance and proactive pollution prevention initiatives. The DOC's energy conservation and management program focuses on public awareness and finding innovative solutions to decrease energy use throughout the Department. Accordingly, this Manual delineates management's responsibility to achieve environmental compliance and energy conservation by prescribing the policies, procedures, and responsibilities for Department-level energy and environmental management programs.

SECTION 3. REFERENCES

.01 Federal laws, regulations, and Executive Orders referenced and used to develop this Manual are listed in Appendix A.

SECTION 4. SCOPE AND AUTHORITY

.01 The Chief Financial Officer/Assistant Secretary for Administration is the Agency Environmental Executive for the DOC and has the authority to approve waivers to this Manual that are consistent with law, regulation, and Executive Orders or with Department environmental policies.

.02 This Manual applies to all Departmental Offices and Operating Units. It also applies to tenants, such as other Federal agencies, contractor activities, and lessees providing direct support to the DOC and located on real property within the jurisdiction of the DOC. Contracts to operate Government-owned facilities must reference this Manual and designate by specific reference the applicable provisions. Departmental Operating Units conducting operations in foreign countries must reference and comply with this Manual or the applicable foreign law; whichever is more stringent.

.03 Supplementation to this Manual by Departmental Offices and Operating Units is prohibited without prior approval from the Chief Financial Officer/Assistant Secretary for Administration. The requirements of such supplements must be consistent with, and no less stringent than the requirements in this Manual.

.04 This Manual establishes the policies and procedures for implementing and maintaining the DOC's environmental management programs. The Manual, which has the status and effect of a Department Administrative Order (DAO), serves as the single authoritative Department energy conservation, seismic safety, historic preservation, and environmental management program reference for all DOC employees.

.05 The Chief, Energy, Safety, and Environment Division, has been delegated authority to approve revisions to this Manual.

SECTION 5. DEFINITIONS

.01 Operating Units - The term Operating Units, as used throughout this Manual, refers to agencies, Bureaus and administrations within the DOC, including the National Oceanic and Atmospheric Administration (NOAA), International Trade Administration, Bureau of Industry and Security, Economic Development Administration (EDA), Minority Business Development Administration, National Telecommunications and Information Administration, Economics and Statistics Administration, Bureau of Economic Analysis, Census Bureau, United States Patent and Trademark Office, National Institute of Standards and Technology (NIST), the National Technical Information Service, and any successor entity.

SECTION 6. POLICIES

.01 Departmental Offices and Operating Units shall:

a. Comply with the laws, regulations, Executive Orders, and directives forming the basis for this Manual, and cooperate with Federal, state, and local agencies to improve the quality of the environment.

b. Plan, develop, and implement all programs and activities in a manner preventing or minimizing adverse impacts on environmental quality.

c. Coordinate with the appropriate legal counsel regarding all reports of liability, permits, agreements, notices of violations, and enforcement actions.

SECTION 7. DISCLAIMER

.01 This Manual is intended to only improve the internal management of the DOC and its Departmental Offices and Operating Units in the performance and fulfillment of its various duties and obligations under existing laws, regulations and Executive Orders. IT IS NOT INTENDED TO CREATE ANY RIGHT, BENEFIT, CLAIM, CAUSE OF ACTION, OR TRUST RELATIONSHIP, EITHER SUBSTANTIVE OR PROCEDURAL, ENFORCEABLE AT LAW OR EQUITY BY A PARTY AGAINST THE UNITED STATES, THE DEPARTMENT, ITS OPERATING UNITS, OFFICERS, EMPLOYEES OR AGENTS.

SECTION 8. INQUIRIES

.01 Inquiries concerning information or status reports on environmental compliance or other elements of the DOC's environmental management programs should be directed to:

Department of Commerce
Energy, Safety, and Environment Division
Room 1036
1401 Constitution Avenue, NW
Washington, DC 20230
(202) 482-3580

- END -

CHAPTER 1.0 - ENERGY CONSERVATION

SECTION 1. PURPOSE

.01 This Chapter outlines the scope, requirements, and responsibilities for implementing and complying with the DOC's policy on Energy Conservation.

.02 Energy Conservation refers to the prudent or efficient use of energy in our Federal facilities.

SECTION 2. SCOPE

.01 This Chapter applies to all DOC offices and Operating Units; all Federal buildings, including leased buildings; and all motor vehicles, ships, and airplanes used by the DOC.

SECTION 3. DEFINITIONS

.01 Alternative Fuel - Includes methanol; ethanol; mixtures containing 85 percent, or more by volume, methanol or ethanol with gasoline or other fuels; compressed natural gas; hydrogen; liquefied natural gas; liquefied petroleum gas; and electricity.

.02 Alternative Fuel Vehicle - Any vehicle either originally manufactured or converted to operate with dual fuel, flexible fuel, or a dedicated alternative fuel. This does not include conventional vehicles limited to operating on blended or reformulated gasoline fuels.

.03 Building Energy Audit - A comprehensive review of all items related to energy and energy consumption in a building, including as-built plans and specifications, energy records, operating and maintenance logs, visual inspections of all energized equipment, the building envelope, windows, doors and other components and measurements, in order to determine how energy is being consumed. Building Energy Audits identify energy conservation measures or steps that can be taken to reduce energy costs and make the building more energy efficient. Building Energy Audits rank the identified measures or steps according to a recommended order of implementation.

.04 Complex - A related group of properties (land, buildings and other structures) located within a geographic area. A complex may be a single building, with associated land, or a group of buildings, including land and support facilities. Complexes often have a single electric, gas, or water meter serving the multiple structures contained therein.

.05 Energy Conservation Measures or Opportunities - Life-cycle cost effective measures applied to a Federal building to improve energy efficiency. These measures may involve energy conservation, cogeneration facilities, renewable energy sources, improvements in operations and maintenance efficiencies or retrofit activities.

.06 Energy Program Manager - An individual who manages and coordinates the Energy Management Program for the DOC, Operating Unit or Departmental office, as applicable.

.07 Energy Savings Performance Contract (ESPC) - A contract for an energy retrofit where a contractor funds the cost for the complete retrofit in return for receiving, over a negotiated period of time, a portion of the energy cost savings realized by the Government through accomplishment of the energy

retrofit. The contract period may not exceed 25 years, and the contractor must guarantee the savings. ESPCs are permanently authorized.

.08 Energy Survey - A procedure used to determine the energy and cost savings likely to result from the use of appropriate energy-related maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related equipment and the use of renewable energy sources. A survey is generally a less in-depth procedure than a Building Energy Audit.

.09 Facility Energy Manager - The Facility Energy Manager has responsibility for the daily operations of a Federal facility, including the management, installation, operation, and maintenance of energy systems in Federal facilities involving more than one building

.10 Facility Manager - An individual who manages a Federal facility, and is responsible for ensuring that the building is operating in compliance with all applicable regulations and codes.

.11 Federal Building - Any building, structure, facility, or part thereof, including the associated energy-consuming support systems, which is constructed, renovated, leased, or purchased in whole or in part for use by the Federal Government, and for which the Government is responsible for paying utility energy costs.

.12 Fleet Manager - An individual who manages a Federal vehicle fleet, and is responsible for ensuring that the fleet is operated in compliance with all applicable regulations and codes.

.13 Life Cycle Costs (LCC) - The total cost of owning, operating, and maintaining a building over its useful life (including such expenses as fuel, energy, labor, and replacement components) as determined by a systematic evaluation and comparison of alternative building systems. In the case of leased buildings, however, the LCC shall be calculated over the effective remaining term of the lease.

.14 Motor Vehicle - Any motor vehicle acquired and used by executive agencies for official purposes. This includes any vehicle acquired by purchase, transfer or loan; obtained from a GSA fleet; or leased or rented from a commercial source.

.15 Renewable Energy - Energy produced by solar, wind, biomass, landfill gas, ocean (including tidal, wave, current and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

.16 Renewable Energy Sources - Including, but not limited to, sources such as agriculture and urban waste, biomass, geothermal energy, hydropower, solar energy, and wind energy. Potential additional renewable energy sources that are not currently commercially available in the United States or are under development are ocean thermal, wave action, and tidal action. Using energy from renewable sources usually causes less pollution than energy from fossil fuels.

.17 Retrofit - The installation of an alternative building energy system in an existing Federal building.

.18 Sustainable Design - A holistic way of looking at building design and development that takes into account the total cradle-to-grave costs of owning/operating a building. Sustainable design principles are used to meet the needs of the present without compromising the quality of life of future generations, and to ensure environmental stewardship and energy efficiency.

.19 Trained Energy Manager - EPACT 1992 defines a trained energy manager as "a person who has completed a course of study in the areas of: (1) fundamentals of building energy systems, (2) building energy codes and applicable professional standards, (3) energy accounting and analysis, (4) life-cycle cost methodologies, (5) fuel supply end pricing, and (6) instrumentation for energy surveys and audits.

.20 Utility Energy Savings Contract (UESC) - A contract for an energy retrofit where a utility company funds the cost for the complete retrofit in return for receiving, over a negotiated period of time, a portion of the energy cost savings realized by the Government through accomplishment of the energy retrofit. The contract period may not exceed ten years; the savings are not guaranteed. This is similar to, but not identical to, an ESPC.

SECTION 4. REQUIREMENTS

.01 Statutes.

a. National Energy Conservation Policy Act (NECPA) of 1978, Public Law 95-619, requires Federal agencies to utilize LCC methodology in their decision-making and to perform LCC audits and retrofits of Federal buildings.

b. Energy Policy Act of 1992 (EPACT 1992), Public Law 102-486, requires Federal agencies, to the maximum extent possible by January 1, 2005, to install in Federal buildings owned by the United States Government all energy and water conservation measures with payback periods of less than 10 years; directs the Department of Energy (DOE) to issue rules and guidance on ESPCs for Federal agencies and authorizes all Federal agencies to enter into such contracts; requires executive departments to establish and maintain programs to train energy managers and to increase the number of trained energy managers within each agency; sets forth a fiscal-year schedule for minimum Federal fleet requirements for alternative-fueled vehicles; and directs the Secretary of Energy to provide guidance and technical assistance to Federal agencies for the procurement and placement of alternative-fueled vehicles.

c. Energy Policy Act of 2005 (EPACT 2005), Public Law 109-058, directs Federal agencies to reduce energy consumption annually by 2% per year from 2006 to 2015; install advanced electric meters in Federal buildings by 2012; procure Energy Star® and FEMP-recommended products; design new buildings to 30% below applicable energy standards if cost-effective; and consume an amount of renewable energy at least equivalent to a specified percentage of their electric consumption; and reauthorizes the use of ESPCs through the end of FY 2016.

d. Energy Independence and Security Act (EISA 2007), Public Law 110-140, consists of provisions designed to increase energy efficiency and the availability of renewable energy. The highlights of key provisions relating to Federal agencies are a 20% reduction in annual petroleum consumption and a 10% increase in annual alternative fuel consumption for Federal fleet vehicles; a 30% decrease in total energy use in Federal buildings by 2015 (as measured against the 2005 level); reduction in fossil fuel energy use by 55% by 2010 (as measured against 2003 level) and a 100% reduction by 2030; a prohibition from leasing buildings that have not earned an EPA Energy-Star label; buildings over 5,000 sq feet have to have maintenance strategies to control storm water runoff; requires Federal procurement to focus on Energy-Star and FEMP designated

products; requires agencies to ensure that major replacements of installed equipment (such as heating and cooling systems), or renovation or expansion of existing space, employs the most energy efficient designs, systems, equipment, and controls that are life-cycle cost effective; requires agencies to develop a process for reviewing decisions made on large capital energy investments to ensure that the requirements are met; requires agencies to report to the Office of Management and Budget on the process established and directs Federal agencies to develop an annual report that describes initiatives to improve energy efficiency, reduce energy costs, reduce green house gas emission; and permanently authorizes ESPCs.

.02 Executive Orders.

a. EO 12375, *Motor Vehicles*, dated August 4, 1982, directs the Administrator of General Services Administration (GSA) to establish a program to monitor executive agencies' acquisition of owned and leased passenger automobiles and light trucks to ensure that the fleet average fuel economy for a given model year is not less than the average fuel economy standard for that class, as established annually by the Secretary of Transportation.

b. EO 13221, *Energy Efficient Standby Power Devices*, dated July 31, 2001, requires Federal agencies to purchase products that consume minimal amounts of power while in their standby mode.

c. EO 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*, dated January 26, 2007, combines the Federal environmental, energy and transportation goals in one executive order. The energy requirements include a 3% annual reduction in energy consumption, or 30% by 2015; and 50% of the renewable energy must be from new renewable sources (in service after January 1, 1999). Other provisions include reducing (potable) water consumption by 2% per year, or 16% by 2015, and constructing or renovating buildings in accordance with sustainable strategies.

.03 Code of Federal Regulations (CFR).

a. 41 CFR 102-74, Energy Conservation, contains Government-wide energy conservation guidelines and policies that Federal agencies shall observe and implement in acquiring, operating, and managing Federal buildings.

b. 41 CFR 102-34, Motor Vehicle Management, contains Government-wide policies and procedures pertaining to the economical and efficient management and control of motor vehicles that the Government owns or leases.

c. 10 CFR 434, Energy Code for New Federal Commercial and Multi-Family High-Rise Residential Buildings, provides minimum standards for energy efficiency for the design of new Federal commercial and multi-family high-rise residential buildings.

d. 10 CFR 435, Energy Conservation Voluntary Performance Standards for New Buildings; Mandatory for Federal Buildings, Subpart C, Mandatory Performance Standards for New Federal Residential Buildings, establishes the energy conservation

performance standards that must be incorporated into the designs of all new residential buildings designed and constructed by and for Federal agencies.

e. 10 CFR 436, Federal Energy Management and Planning Programs, provides methodology and procedures for estimating and comparing the LCC of Federal buildings, for determining the LCC effectiveness of energy conservation and water conservation measures, and for rank-ordering LCC effective measures in order to design a new Federal building or to retrofit an existing Federal building; establishes the method by which efficiency shall be considered when entering into or renewing leases of Federal building space; provides procedures and methods that apply to Federal agencies with regard to the award and administration of energy savings performance contracts; and provides guidelines for use by Federal agencies in the development of overall ten-year energy management plans to establish energy conservation goals, reduce the rate of energy consumption, promote the efficient use of energy, promote switching from petroleum-based fuels and natural gas to coal and other energy sources, provide a methodology for reporting their progress in meeting the goals of those plans, and promote emergency energy conservation planning to lessen the impact of a sudden disruption in the supply of oil-based fuels, natural gas or electricity.

.04 Other Federal Guidance.

a. Life Cycle Costing Manual for the Federal Energy Program, NIST Handbook 135, Revised 1995, contains guidelines that Federal agencies shall use in performing economic evaluations of energy conservation and renewable energy projects required by the NECPA, and the LCC rule set forth in 10 CFR 436, Subpart A.

b. *Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding* (2006). The MOU is a voluntary Federal government commitment to designing, locating, constructing, maintaining, and operating facilities in an energy efficient and sustainable manner, and commits the DOC and its Operating Units to implement various aspects of sustainable building in new building designs. The accompanying *Guiding Principles* provides the details of the goals and expectations.

SECTION 5. RESPONSIBILITIES

.01 The Chief Financial Officer and Assistant Secretary for Administration serves as the DOC's Senior Official for energy, environment and transportation, and is responsible for:

a. Serving as the Senior Agency Official for the DOC's energy management program;

b. Monitoring and reporting to the head of the agency on agency activities to carry out the provisions of EO 13423, and performs such other duties relating to the implementation of EO 13423 as the head of the agency deems appropriate; and

c. Participating in periodic interagency meetings of Senior Officials.

.02 The Director, Office of Administrative Services, shall be responsible for:

a. Developing policy for and overseeing the DOC's energy management program; and

b. Assisting the DOC Senior Official in carrying out these responsibilities.

.03 The Associate Director, Office of Administrative Operations, shall be responsible for developing policy for and managing the DOC's motor vehicle fleet. The DOC Fleet Manager assists the Director in carrying out these responsibilities.

.04 The Energy Program Manager shall be responsible for:

a. Developing policy for and implementing the DOC's energy management program;

b. Providing technical advice and assistance to Departmental Offices and Operating Units;

c. Representing the DOC at conferences, meetings, and other forums where energy management/conservation issues are discussed, and serving as the DOC's liaison for energy with the DOE and other Federal agencies;

d. Conducting policy oversight reviews and operational evaluations of Operating Unit energy management programs and practices;

e. Reviewing Office of the Secretary and Operating Unit energy management plans and projects;

f. Maintaining electronic database of energy data;

g. Coordinating the submission of Department-wide energy management reports to DOE for both buildings and vehicles;

h. Coordinating the submission of the OMB Energy Management Scorecard; and

i. Notifying Departmental Offices and Operating Units of any amendments or changes to current legislation impacting energy use or conservation.

.05 The DOC Fleet Manager shall be responsible for:

a. Developing policy for and implementing the DOC's fleet energy management program;

b. Developing and maintaining a fleet acquisition plan that meets the requirement of EO 13423;

c. Representing the DOC at conferences, meetings, and other forums where fleet energy management issues are discussed, and serving as the DOC's liaison for energy matters with the Department of Transportation, DOE and GSA;

d. Conducting policy oversight reviews and operational evaluations of Operating Unit fleet management programs and practices; and

e. Coordinating the submission of Department-wide fleet management reports and scorecards to GSA, DOE, and OMB.

.06 Heads of Departmental Offices and Operating Units, as applicable, shall be responsible for the overall implementation of a Federal energy management program in their respective organizations and for:

a. Designating an Energy Program Manager to manage and coordinate their energy management programs;

b. Developing a long-term energy management plan & strategy, tailored to their mission and organizational structure, to implement the DOC's Federal energy management program to reduce energy usage and costs, and comply with the provisions of the NECPA, EPACT 1992 and 2005, EISA 2007, and EOs 12375, 13221, and 13423. A copy of this plan shall be provided to the DOC's Energy Program Manager within sixty (60) days after the effective date of this Manual and updated annually;

c. Taking action to implement all identified no-cost and low-cost energy and water conservation measures, and all energy and water conservation measures with payback periods of less than ten years as determined through use of LCC methodology;

d. Utilizing LCC methodology in all procurement decisions involving the acquisition of energy-efficient goods and services including decisions relating to energy retrofits, new building designs and systems and the selection of leased buildings;

e. Participating, to the maximum extent possible, in all demand (customer) side management programs and services including utility rebates offered by electric, gas, and water utilities, and other private sector energy service providers;

f. Operating and managing all Federal buildings under their operational control, including buildings operated under delegations of authority from GSA in an energy efficient manner and in accordance with the energy conservation guidelines set forth in 41 CFR 102-74;

g. Establishing a program to utilize third party financing (through award of ESPCs or UESCs) to fund energy retrofits of Federal buildings;

h. Ensuring that all newly constructed buildings for the DOC are designed and built in accordance with the energy performance standards applicable to Federal residential and commercial buildings set forth in 10 CFR 434 and 435;

i. Designating a Facility Energy Manager for all buildings or complexes with 5,000 or more gross square feet and encouraging these individuals to become trained energy managers. A listing of the names, addresses, and telephone numbers of these individuals shall be provided to the DOC's Energy Program Manager within thirty (30) days after the effective date of this Manual, and then provided to the DOC's Energy Program Manager each year with the annual reporting data;

j. Submitting to the Departmental Office of Budget, as part of its annual budget submission, a statement on the amount of funds it is requesting for implementation of its

energy management program in accordance with the provisions of the NECPA, EPACT 1992 and 2005, EISA 2007, and EOs 12375, 13221, and 13423;

k. Maintaining accurate and complete records on energy usage and costs incurred in operating all Federal buildings, motor vehicles, ships, and airplanes under their operational control;

l. Submitting required reports on their energy management program to the DOC's Energy Program Manager;

m. Promoting energy conservation through training and employee awareness programs;

n. Providing financial incentive awards and special recognition to Facility Energy Managers, Facility Managers, and others for outstanding performance in developing and implementing programs and special projects to increase Federal energy efficiency and reduce energy consumption and costs;

o. Developing a plan to achieve a 20 percent reduction in motor vehicle gasoline and diesel fuel consumption;

p. Achieving the mandated fleet average economy standard for owned and leased passenger automobiles and light trucks;

q. Acquiring the maximum number of alternative-fueled vehicles for their motor vehicle fleet;

r. Ensuring the use of alternative fuels in those vehicles the majority of the time; and

s. Ensuring that all new Department leases for space are as energy efficient as practical and are in full compliance with EISA 2007, Section 435.

.07 Facility Managers shall be responsible for:

a. Developing and implementing a site specific energy management plan for all buildings or complexes with 30,000 or more gross square feet to achieve the mandated energy efficiency goals for buildings and facilities set forth in the NECPA, EPACT 1992 and 2005, EISA 2007, and EO 13423. A copy of the plan, including updates, shall be submitted as an attachment to the Operating Unit's energy management plan;

b. Participating, to the maximum extent, in all demand-side management programs and services including energy and water rebates offered by their servicing utility companies;

c. Developing and implementing an operating plan for all buildings to ensure that building equipment and systems are operated in an economically energy efficient manner, and in accordance with the energy conservation guidelines contained in 41 CFR 102-74;

d. Ensuring that heating, ventilation and air conditioning equipment and systems are regularly serviced and maintained according to the recommendations of the equipment's/system's manufacturer and are operated to achieve maximum efficiency; and

e. Submitting required reports on their energy management plans to the Head of their Departmental Office or Operating Unit.

.08 Facility Energy Managers shall be responsible for:

a. Analyzing all utility and fuel bills and reporting energy usage and costs to their Operating Unit's Energy Conservation Coordinator for inclusion in their Annual Energy Consumption Data Report; and

b. Making recommendations to the Facility Manager for operating the facility as efficiently as possible.

.09 Fleet Managers shall be responsible for:

a. Developing and implementing a site-specific fleet management plan to achieve the mandated energy efficiency goals set forth in EO13423; and

b. Managing their vehicle operations in accordance with the requirements contained in 41 CFR 102-34.

SECTION 6. ANNUAL BUDGET SUBMISSIONS

.01 Each Operating Unit shall submit to the Departmental Office of Budget, as part of its annual budget submission, a statement on the amount of funds it is requesting for implementation of its energy management program in accordance with the provisions of the NECPA, EPACT 1992 and 2005, EISA 2007, and EOs 12375, 13221, and 13423.

SECTION 7. REPORTS

.01 Annual Energy & Water Consumption Data Report. This report shall be submitted to the DOC's Energy Program Manager no later than November 15th of each year. The report shall be in the format specified by the DOE, showing the energy consumed by fuel type for all reportable Federal buildings under the Operating Unit's control and the energy consumed in operating all Government-owned or leased motor vehicles.

.02 Annual Energy & Water Management Report. This is a narrative report of the various actions taken, and the progress made, by the Operating Units within the DOC as they implement the Federal energy management program to achieve the Federal energy efficiency goals for buildings, facilities and motor vehicles set forth in the NECPA, EPACT 1992 and 2005, EISA 2007, and EO 13423. The format of this report is specified annually by the Secretary of DOE, and accompanies the Annual Energy Consumption Data Report. The report shall follow the format specified by the DOE, and address those elements pertinent to the Operating Unit's energy management program. This report shall be submitted to the DOC Energy Program Manager no later than November 15th of each year.

.03 Agency Energy Management Scorecard. The Energy Management Scorecard evaluates the DOC's energy and water management activities. The Office of Management and Budget requests agency input for the scorecard twice a year, generally in late June/early July and late December/early January. Information about meeting planned actions should be forwarded to the DOC Energy Program Manager when completed. Status reports on uncompleted actions shall be submitted to the Energy Program Manager upon request.

.04 Annual Transportation Scorecard. The Transportation Scorecard assesses general progress against goals of Executive Order 13423, EPACT 1992 and 2005, and EISA 2007. OMB requests agency input for the scorecard twice a year, generally in late June/early July and late December/early January. Information about meeting planned actions should be forwarded to the Department Fleet Manager when completed. Status reports on uncompleted actions shall be submitted to the Fleet Manager upon request.

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CHAPTER 2.0 - HISTORIC PRESERVATION

SECTION 1. PURPOSE

.01 This Chapter outlines the goals, objectives, responsibilities, and roles for implementing and complying with the DOC's policy on Historic Preservation.

.02 Existing properties and those that are about to be acquired must be evaluated for their historic, architectural, archeological, engineering and cultural values. Additionally, properties that are to be excessed must be evaluated for historic and cultural value prior to release, based on Section 110 of the National Historic Preservation Act (16 U.S.C. 470).

SECTION 2. SCOPE

.01 Provisions of this Chapter apply to all Departmental Offices and Operating Units.

.02 This Chapter covers the authorities, policies, and procedures for the DOC Operating Units as they identify, evaluate, and nominate for the National Register, and maintain, preserve, protect and use properties of a historic, archeological, architectural, engineering or cultural significance. It is not intended to create any additional rights or responsibilities other than those required by law.

SECTION 3. DEFINITIONS

.01 Advisory Council - The Advisory Council on Historic Preservation or an Advisory Council member or employee designated to act for the Advisory Council.

.02 Agency - Agency as defined in 5 U.S.C. § 551

.03 Area of Potential Effects (APE) - The geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

.04 Comment - The findings and recommendations of the Advisory Council formally provided in writing to the head of a Federal agency under Section 106.

.05 Consultation - The process of seeking, discussing, and considering the views of other participants, and where feasible seeking agreement with them regarding matters arising in the Section 106 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act" provides further guidance on consultation.

.06 Effect & Adverse Effect - If the undertaking could change in any way the characteristics that qualify the property for inclusion in the National Register, for better or for worse, it is considered to have an "effect." If the undertaking could diminish the integrity of such characteristics, it is considered to have an "adverse effect."

.07 Head of the Agency - The chief official of the Federal agency responsible for all aspects of the agency's actions. If a State, local, or tribal government has assumed or has been delegated

responsibility for Section 106 compliance, the head of that unit of government shall be considered the head of the agency.

.08 Historic Property - Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria. The term "eligible for inclusion in the National Register" includes both properties formally determined as such in accordance with regulations of the Secretary of Interior and all other properties that meet the National Register criteria.

.09 Indian Tribe - An Indian tribe, band nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. § 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

.10 Inventory - An inventory is a repository of information on specific properties evaluated as significant.

.11 Local Government - A city, county, parish, township, municipality, borough, or other general purpose political subdivision of a State.

.12 Management Inventory - An organized compilation of information on properties that have been evaluated against the National Register criteria, including both historic and non-historic properties.

.13 Memorandum of Agreement (MOA) - The document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties.

.14 National Historic Landmark (NHL) - A district, site, building, structure or object that the Secretary of the Interior designated a National Historic Landmark, determined to posses exceptional values in commemorating or illustrating the history of the United States and which has been so designated under the authority of the Historic Sites Act of 1935, 16 U.S.C. §§ 461-467.

.15 National Marine Sanctuary - A marine environment (any of the area of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction) that the Secretary of Commerce has designated a National Marine Sanctuary. These sanctuaries have been described as the Nation's underwater national parks.

.16 National Register - The National Register of Historic Places is a list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering, and culture that is maintained for the Secretary of the Interior by the National Park Service.

.17 National Register Criteria - The criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36 CFR Part 60).

.18 Secretary - The Secretary of the Interior acting through the Director of the National Park Service, except where otherwise specified.

.19 Section 106 Review Process - The Federal historic preservation review process involving identification and evaluation of historic properties, consideration of project effects on them, and resolution of these effects in the public interest through consultation. A determination that a government action amounts to an undertaking will trigger the Section 106 Review and the process must be completed prior to Federal approval of an undertaking.

.20 State Historic Preservation Officer (SHPO) - The official appointed or designated pursuant to section 101(b) (1) of the National Historic Preservation Act to administer the State historic preservation program or a representative designated to act for the State Historic Preservation Officer.

.21 Tribal Historic Preservation Officer (THPO) - The tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of Section 106 compliance on tribal lands in accordance with Section 101 (d) (2) of the National Historic Preservation Act. The term may also include the designated representative of an Indian tribe that has not formally assumed the SHPO's responsibilities when an undertaking occurs on or affects historic properties on the tribal lands of the Indian tribe. (See 36 C.F.R. § 800.2 (c) (2)).

.22 Tribal Lands - All lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.

.23 Undertaking - A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to state or local regulation administered pursuant to a delegation or approval by a Federal agency.

SECTION 4. REQUIREMENTS

Departmental Offices and Operating Units shall comply with all applicable statutes, regulations, Executive Orders and directives pertaining to identification, evaluation, use, protection and preservation of historic and cultural properties. The following is a list major statutes, regulations, Executive, Orders and directives that apply to historic properties and cultural resources.

.01 Statutes.

a. Historic Sites Act of 1935, 16 U.S.C. 461-467: Gives the Secretary Of the Interior authority to designate districts, sites, buildings, structures or objects as National Historic Landmarks (NHL). In order to qualify for such a designation, these properties must possess exceptional value in commemorating the history of the United States.

b. The National Historic Preservation Act of 1966 (the Act), as amended, 16 U.S.C. 470, et seq.: Section 106 of the Act requires Federal officials to take into account the effect of all undertakings on any district, site, building, structure, or object that is included in or eligible for inclusion on the National Register. Section 110 of the Act charges each Federal agency with the affirmative responsibility for considering projects and programs that further the purpose of the Act. The intent of Section 110 is to ensure that historic preservation is integrated into Federal agency programs.

c. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321, et seq.: Declares that it is the policy of the Federal government to preserve important historic, cultural, and natural aspects of our national heritage.

d. The Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1401, et seq. and 16 U.S.C. 1431, et seq.: Gives the Secretary of Commerce the authority to designate and manage certain areas of the marine environment. This includes the management of any living or non-living resource within the boundaries of a designated sanctuary that contributes to the conservation recreation, or ecology, of the historical values of the sanctuary.

e. Archaeological and Historic Preservation Act, 16 U.S.C. 469c-1: Requires Federal agencies to notify the Secretary of the Interior of any significant loss or destruction of significant scientific, prehistorical, historical, or archeological data caused by its activities in connection with construction projects or Federally licensed projects or programs.

f. The Public Buildings Act of 1959, as amended, 40 U.S.C. 601- 619: Encourages Federal agencies to use space in historic buildings.

g. National Maritime Heritage Act of 1994, 16 U.S.C. 5401- 5408: This Act provides technical assistance in the preservation planning activities related to historic maritime resources both in and outside of the National Park System. These activities include assessment of impacts from redevelopment, construction, demolition, or restoration; mitigation of adverse effects; formulation of archeological research designs; review of restoration plans; and generation of community and public awareness.

h. Abandoned Shipwreck Act of 1987, 43 U.S.C. 2101- 2106: Under this Act, the U.S. asserts title to shipwrecks that are embedded in the submerged lands of a state and transfers title to the state whose submerged lands contain the shipwreck, except when the wreck is located on public or Indian land, or is a U.S. warship that has not been affirmatively abandoned. States are encouraged to provide public access to the shipwrecks with the adoption of guidelines for the creation of underwater parks. Shipwrecks protected under this Act offer recreational and educational opportunities for drivers, tourists, users of biological sanctuaries, and historical researchers.

i. Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) 25 U.S.C. 3001-3013: This Act assigns ownership and control of Native American cultural items, human remains, and associated funerary objects to Native Americans. It also establishes requirements for the treatment of Native American human remains and sacred or cultural objects found on Federal land. This Act further provides for the protection, inventory, and repatriation of Native American of Native American cultural items, human remains, and associated funerary objects. When these items are inadvertently discovered, cease activity, make a reasonable effort to protect the items, and notify the appropriate Indian tribe and/or Native Hawaiian organization.

.02 Executive Orders.

a. EO 11593, *Protection and Enhancement of the Cultural Environment*, dated 1971, requires Federal agencies to administer cultural properties under their control and direct

their policies, plans, and programs in such a way that federally-owned sites, structures, and objects of historical, architectural or archeological significance are preserved, restored, and maintained. Specifically, agencies are required to survey all lands under their ownership or control and nominate to the National Register of Historic Places all properties which appear to qualify. It also requires agencies to avoid inadvertently destroying such properties prior to completing their inventories.

b. EO 13006, *Locating Federal Facilities on Historic Properties in Our Nation's Central Cities*, dated 1996, calls upon Federal agencies to give, whenever economically prudent and operationally appropriate, first consideration to historic properties in historic districts when locating Federal facilities. If no such property is suitable, agencies must next consider other sites in historic districts. Any construction or rehabilitation undertaken by Federal agencies must be architecturally compatible with the surrounding historic properties. The Executive Order also directs Federal agencies to reform regulations and procedures that impede location of Federal facilities in historic properties or districts and to seek the assistance of the Advisory Council on Historic Preservation Council in this effort. Finally, EO 13006 calls upon Federal agencies to seek partnerships with States, local governments, Indian tribes and private organizations, with the goal of enhancing the Nation's preservation program.

c. EO 13007, *Indian Sacred Sites*, dated 1996, permits access to and ceremonial use of Indian sacred sites by Indian religious practitioners and seeks to avoid adversely affecting the physical integrity of such sacred sites by maintaining the confidentiality of the sacred sites.

d. EO 13287, *Preserve America*, dated 2003, requires Federal agencies with real property responsibilities to, beginning September 30, 2005, and every three years thereafter, prepare a report on its progress in identifying, protecting, and using historic properties in its ownership.

.03 Code of Federal Regulations.

a. 36 CFR Part 800, Protection of Historic Properties: Implements Section 106 of the National Historic Preservation Act (16.U.S.C. 470), which requires Federal agencies that have jurisdiction over a Federal, federally-assisted, or federally-licensed undertaking to take into account the effects of the undertaking on historic properties and give the Advisory Council on Historic Preservation (Advisory Council) a reasonable opportunity to comment on the undertaking.

b. 36 CFR Part 60, National Register of Historic Places: Describes the procedures for nominating properties to the National Register of Historic Places.

c. 36 CFR Part 65, National Historic Landmarks Program: Implements the Historic Sites Act of 1935 by setting forth the criteria for establishing national significance and the procedures used by the Department of the Interior for conducting the National Historic Landmarks Programs. The purpose of the National Historic Landmarks Program is to identify and designate National Historic Landmarks, and encourage the long range preservation of nationally significant properties that illustrate or commemorate the history and prehistory of the United States.

d. 36 CFR Part 68, The Secretary of the Interior's Standards for the Treatment of Historic Properties: Contains the Department of the Interior's professional standards for the preservation and protection of all historic properties listed in or eligible for the National Register of Historic Places.

e. 36 CFR Part 79, Curation of Federally-Owned and Administered Archeological Collections: These regulations are to be followed by Federal agencies to preserve collections of prehistoric and historic material, and associated records recovered by Federal agencies in compliance with a variety of cultural resources laws. They establish: 1) procedures and guidelines to manage and preserve collections; 2) terms and conditions for Federal agencies to include in contracts, memoranda, agreements or other written instruments with repositories for curatorial services; 3) standards to determine when a repository has the capability to provide long- term curatorial services; 4) guidelines to provide access to, loan, and otherwise use collections.

.04 Other Federal Guidance.

a. The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44716- 44740, dated September 29, 1983, these standards and guidelines implement Section 110 of the National Historic Preservation Act (16. U.S.C. 470) by providing technical advice and proper methods for archeological and historic preservation activities.

SECTION 5. RESPONSIBILITIES

.01 The Chief Financial Officer and Assistant Secretary for Administration serves as the DOC's Senior Official for energy, environment and transportation, and is responsible for serving as the Senior Agency Official for the DOC Historic Preservation Program;

.02 The Director, Office of Administrative Services, shall be responsible for:

a. Administering the DOC's Historic Preservation Program;

b. Assisting the DOC Senior Official in carrying out these responsibilities; and

c. Appointing a Federal Historic Preservation Officer (FHPO) for DOC.

.03 Associate Director, Office of Real Estate Policy and Major Programs shall be responsible for:

a. Developing policy and procedures for implementing DOC's historic and cultural preservation program;

b. Performing oversight review and studies to determine DOC compliance with applicable laws, regulations, policies, and procedures; and

c. Determining Department-wide management, information and record-keeping requirements for all DOC historic properties.

.04 DOC Federal Historic Preservation Officer shall be responsible for:

a. Developing and Implementing the DOC's historic preservation program;

b. Reviewing and approval of proposed actions by DOC Operating Units relating to historic preservation;

c. Reviewing and approval of nominations to the National Register of Historic Places;

d. Reviewing and approval of MOAs pertaining to Section 106 of the Act;

e. Reviewing and approval of all communications with the SHPO/THPO and the Advisory Council;

f. Serving as DOC liaison with the Advisory Council, National Parks Service and other Federal agencies;

g. Providing advice and assistance to the Operating Units in implementing DOC's historic preservation program;

h. Notifying Departmental Offices and Operating Units of any amendments or changes to current legislation pertaining to Historical Preservation; and

i. Preparing the triennial report submission to the Advisory Council on Historic Preservation in compliance with EO 13287, *Preserve America*.

.05 Departmental Offices and Operating Units shall be responsible for:

a. Identifying real property holdings under their jurisdiction or control which would qualify as historic properties.

b. Appointing qualified personnel to coordinate the implementation of the DOC's historic preservation program within its Departmental Office or Operating Unit. Each Departmental Office and Operating Unit will provide (to the DOC's FHPO) the name(s) and address(es) of its designated Historic Preservation Officer (Operating Unit HPO);

c. Identifying and evaluating properties under their jurisdiction and control that appear to qualify for inclusion on the National Register in accordance with the guidelines and instructions contained in Section 110 of the National Historic Preservation Act;

d. Considering the effects of all Departmental Office and Operating Unit undertakings, including Operating Unit-assisted or Operating Unit-licensed undertakings, on historic properties prior to expenditure of any Federal funds or issuance of any license or permit;

- Departmental Offices and Operating Units not directly involved in Federal projects may acquire historic preservation responsibilities through involvement in Federal grant programs. Departmental Offices and Operating Units that provide assistance to non- Federal entities in the form of licenses, permits and/or funding, must comply with all preservation laws and regulations. Each Operating Unit is responsible for post-grant monitoring to ensure compliance with historic preservation requirements.
- Departmental Offices and Operating Units that provide assistance to non-Federal entities in the form of licenses, permits, and/or funding, shall, to the maximum extent feasible, design its programs so that grantees retain and make appropriate use of historic properties in carrying out grant-funded activities. Departmental

Offices and Operating Units may not grant any assistance, license or permit to an applicant who damages or destroys historic property with the intent of avoiding the requirements of Section 106, unless specific circumstances warrant such assistance as stated in the Act, Section 110 (k).

e. Using and re-using historic properties for program purposes in lieu of constructing or leasing new facilities and demolishing existing historic properties;

f. Maintaining an inventory of documentation on all evaluated properties and general background data and information on the status of the identification program;

g. Establishing plans to maintain and preserve historic properties under their ownership and control; training maintenance personnel in using such plans and appropriate maintenance techniques; and preservation treatments. Ensuring that alterations to these properties are done in accordance with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation and are reviewed in accordance with Section 106 of the Act;

h. Maintaining appropriate documentation in accordance with Section 106 (a) of the National Historic Preservation Act on all undertakings that result in the substantial alteration or demolition of historic properties and depositing such records in the Library of Congress or with such other appropriate agency as may be designated by the Secretary of Interior;

i. Providing input into the Department's Triennial Historic Preservation Report;

j. Routing all correspondence prepared for the SHPO/THPO or Advisory Council on Historic Preservation through the DOC's FHPO for review; and

k. Coordinating Section 106 review with the environmental review process required by the National Environmental Policy Act (NEPA).

.06 Administrative Support Centers shall be responsible for:

a. Assisting Departmental Offices and Operating Units in identifying, evaluating and nominating eligible properties for inclusion on the National Register;

b. Assisting Departmental Offices and Operating Units in complying with the requirements of Section 106 of the Act. This shall include identifying historic properties, determining the effect of proposed undertakings on the identified properties, consulting with the SHPO/THPO and all other interested parties, preparing agreement documents an completing the undertakings in accordance with the terms of the executed agreement documents;

c. Promoting the use of historic properties to house Departmental Offices and Operating Units;

d. Providing advice and assistance to Operating Units in complying with the requirements of the National Historic Preservation Act, other Federal laws, EOs and regulations pertaining to historic properties; and

e. Maintaining requirement information on all DOC historic properties under their jurisdiction.

SECTION 6. OBJECTIVES

.01 It is the policy of the DOC to comply with the National Historic Preservation Act, through cooperation and partnership with states, local governments, Indian tribes, Native Alaskan and Hawaiian groups, private organizations and individuals to:

a. Preserve the historic and cultural resources of our American heritage;

b. Administer DOC-owned, controlled, or administered prehistoric, historic and cultural resources in a spirit of stewardship for the inspiration of present and future generations;

c. Give priority to the use of historic properties to the maximum extent feasible in carrying out DOC responsibilities;

d. Preserve all historic and cultural properties which DOC owns or controls in a manner that retains and respects the significant qualities that render or may render the property eligible for the National Register;

e. Perform renovation and maintenance activities in a manner that does not interfere with a property's significant historical features;

f. Nominate DOC-owned or controlled property for inclusion to the National Register as soon as practicable after the property has been evaluated and determined to be eligible;

g. Seek and consider the views of the Advisory Council, SHPOs, THPOs, Native Alaskan and Hawaiian organizations, other Federal agencies, local governments, and interested persons in historic preservation efforts concerning DOC's planned undertaking;

h. Protect, preserve, rehabilitate and use historic properties to the maximum extent possible;

i. Inventory properties that posses historic, architectural, archeological, and cultural values located on public lands within the boundaries of designated Sanctuaries; and if appropriate, to nominate these properties for inclusion on the National Register; and

j. Where grants have been made by the DOC or any of its Operating Units; grantee's activities are to be monitored to ensure compliance with the requirements of this manual and to ensure grantees' activities comply with the laws and regulations affecting historical preservation, and the environment.

SECTION 7. MAJOR PROGRAM PROCEDURES

01. Departmental Offices and Operating Units should consult with the following during this process: National Register, SHPO/THPO, state archeologists, local government officials, Indian tribes, public and private organizations and others who may have historic properties in the area or may be concerned about such properties. In the event it becomes necessary to perform a survey to identify the existence to historic properties, the Operating Unit/ASC shall coordinate its efforts with the SHPO/THPO and other interested parties. Reference the Advisory Council publication "Identification of Historic

Properties: A Decision Making Guide for Managers" and the Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation [48 Fed. Reg. 44720-44726].

.02 Evaluating Historic Properties. When properties are identified (but have not been evaluated) that may be historic or culturally significant, the Operating Units shall be responsible for having the properties evaluated to determine their eligibility for nomination to the National Register. Properties shall be evaluated against the National Register criteria, developed by the National Park Service and in consultation with the SHPO/THPO. Reference National Register Bulletin 115, "Guidelines for Applying the National Register Criteria for Evaluation."

.03 Nominating Properties to the National Register.

a. Departmental Offices and Operating Units shall nominate eligible properties to the National Register in accordance with the procedures described in 36 CFR Part 60, the Secretary's Standards for Registration.

b. Nominations shall be submitted on FPS Form 10-900, National Register of Historic Places Registration Form or on NPS Form 10-900-b, Multiple Property Registration Form, as appropriate.

c. Completed nominations shall be forwarded to the DOC's FHPO for review. The FHPO will forward the nomination to the SHPO for review and comment prior to the FHPO's certification.

d. The nomination shall then be transmitted to the Keeper of the National Register for a decision. Reference National Register Bulletin 16, "Guidelines for Completing National Register Forms."

.04 Professional Qualifications for Identification, Evaluating and Nomination of Historic Properties. Identification, evaluation and registration nomination of historic properties must be conducted by professionally qualified individuals. [NHPA Sec 101 (g) (h) and Sec 112]. Professionally qualified individuals shall have the minimum qualifications in education and experience as established by the Secretary of the Interior's Professional Qualifications Standards [48 Fed. Reg. 44716 (September 29, 1983)] [36 CFR Part 61]. Depending on the complexity of the tasks and nature of the historic properties, additional areas or levels of expertise may be necessary.

.05 Preservation of Historic Properties.

a. Departmental Offices and Operating Units shall establish and implement plans to inventory, maintain and preserve all of their identified historic properties consistent with the consistent with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties. Departmental Offices and Operating Units shall develop plans for all historic properties under their jurisdiction and control; and

b. The DOC's FHPO review and approval process requires a minimum of 30 days' prior notification for final review. Absent objection from the FHPO within 30 days of submission, the Operating Unit may proceed as indicated in its request to the DOC.

.06 Management Factors to Consider in Developing Preservation Plans.

a. Departmental Offices and Operating Units preservation plans should consider the preservation of the property's historical architectural, archeological, engineering and cultural values [NHPA Sec 110 (a) (1), Sec 110 (a) (2) (B), Sec 110 (b)] and be consistent with the Secretary of Interior's Standards for the Treatment of Historic Properties [36 CFR Part 68], and Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings and Guidelines for the treatment of Historic Landscapes.

b. Departmental Offices and Operating Units shall develop plans to manage and preserve their historic properties that are cost-effective and compatible with their mission and operating programs. Preservation plans shall consider preservation costs, modifications, pre-evaluation preservation and inventory management. Plans are to be submitted to the FHPO upon completion and when amended.

c. Preservation costs are eligible project costs on an equal footing with other planning, design, construction, environmental protection and mitigation needs and requirements. The cost of caring for, documenting and otherwise preserving artifacts, records and remains related to historic properties is also an eligible project cost. [NHPA Sec 110 (g)]. In order to eliminate duplicative efforts and assist in Departmental Office and Operating Unit planning, the preservation program should be coordinated with actions the Departmental Offices and Operating Units take to meet the requirements of other relevant and related Federal statutes (e.g., NAGPRA, the Archaeological Resources Protection Act, the American Indian Religious Freedom Act, and NEPA).

d. Modifications to historic properties or identified properties that may be historic or culturally significant, but not yet evaluated for inclusion on the National Register, should adhere to the Secretary of Interior's Standards for the Treatment of Historic Properties.

e. Departmental Offices and Operating Units shall develop and maintain an inventory of all properties (land, structural or marine) that are historic, archeological, architectural, engineering or culturally significant, that are either a National Historic Landmark, or on the National Register of Historic Register of Historic Places. Section 106 of the Act gives equal consideration to properties that have already been included in the National Register, as well as those that meet National Register criteria. Inventories shall be submitted to the FHPO for review upon completion and after subsequent amendments.

f. All properties that are deemed "Historic and Culturally Significant" shall be entered into the DOC's electronic database for managing real property. They are to be noted in the comment area as being either "National Historic Landmark," "National Register," or "National Registry Eligible."

g. The Secretary of the Interior's Guidelines for Evaluation state that the inventory should include:

- Summaries of the important historic contexts. These may be in the form of an approved plan or analysis of historic contexts important to the history of the inventory's geographical area.

- Descriptions of significant property types of these contexts, whether or not any specific properties have been identified.
- Results of reconnaissance surveys or other identification activities, even if the level of information on specific properties identified as part of these activities is not sufficient to evaluate individual properties.
- Information on individual properties used in the evaluation:
  - Historic contexts identified by name, reference to documents describing those contexts, or a narrative statement about the context (s) where such documents do not exist.
  - Description of the property; part of the description may be a photographic record.
  - Statement that justifies the significance of the property in relation to its context (s). This statement should include an analysis of the integrity of the property.
  - Boundaries of the property.
  - Record of when the property was evaluated and included in the inventory and by whom.
- Records on demolished or altered properties and properties evaluated as not significant should be retained, along with a full description of the areas surveyed. The planning information these records provide about impacts to properties, location and character of non-significant properties will prevent redundant identification work at a later date.

.07 NHPA Section 106 Process.

a. Section 106 of the NHPA holds Federal agencies responsible to determine whether their undertaking could affect historic properties. If the determination is made that a historic property could be affected, the agency must notify the appropriate SHPO/THPO and consult with them during the process. The agency should further identify other potential consulting parties and plan to involve the public. If the Federal agency determines that its undertaking has no potential to affect historic properties, the agency has no further obligation under Section 106.

- Identify historic properties.
  - If the Departmental Office's or Operating Unit's undertaking could affect a historic property (ies), the agency shall determine the scope of appropriate identification efforts and then proceed to identify historic properties in the area of potential effects (APE).
  - The agency shall review background information, consult with the SHPO/THPO and others, seek information from knowledgeable parties and conduct additional studies as necessary. Districts, sites, buildings structures, and object listed on the National Register are considered; unlisted properties are evaluated against the National Park Service's published criteria in consultation with the SHPO/THPO and consideration given to any Indian tribe or Native Hawaiian organization that may attach religious or cultural importance to the property.
  - If questions arise about the eligibility of a property, the Departmental Office or Operating Unit shall seek a formal determination of eligibility from the National Park Service.

- If the Departmental Office or Operating Unit finds that no historic properties are present or affected, it provides documentation to the FHPO for review and proceeds with its undertaking if no objection is received within 30 days of submittal. Similar notice shall be given to the SHPO/THPO. However, before proceeding, follow-up is to be made with the SHPO/THPO to ensure there are no objections.
- If the Departmental Office or Operating Unit finds that historic properties are present, it proceeds to assess possible adverse effects.

b. Assess adverse effects.

- The Departmental Office or Operating Unit, in consultation with the SHPO/THPO, makes an assessment of adverse effects on the identified historic properties based on criteria found in the Advisory Council's regulations.
- If the parties agree there will be no adverse effect, the Departmental Office or Operating Unit proceeds with the undertaking and any agreed upon conditions. If the parties cannot agree or find that there is an adverse effect, consultation continues to identify ways to avoid, minimize, or mitigate the adverse effects.

c. Resolve adverse effects.

- The Departmental Offices or Operating Units consult with the SHPO/THPO and as necessary, Indian tribes and Native Hawaiian organizations, local governments, permit or license applicants and the public. The Advisory Council may participate in consultation when there are substantial impacts to important historic properties; a case presents important questions of policy or interpretation; there is a potential for procedural problems; or there are issues of concern to Indian tribes or Native Hawaiian organizations.
- Consultation usually results in a Memorandum of Agreement (MOA), which outlines agreed upon measures that the Operating Unit will take to avoid, minimize, or mitigate the adverse effects. In some cases, the consulting parties may agree that no such measures are possible, but that the adverse effects must be accepted in the public interest.
- Departmental Offices or Operating Units shall submit all MOAs to the DOC Office of General Counsel for review. Reference Advisory Council publication, "Preparing Agreement Documents."

d. Implementation.

- If an MOA is executed, the Departmental Office or Operating Unit may proceed with its undertaking under the terms and conditions of the MOA.

e. Failure to resolve adverse effects.

- If consultation proves unproductive, the Operating Unit, the SHPO/THPO or the Advisory Council may terminate consultation. If a SHPO terminates consultation, the Departmental Office or Operating Unit and the Advisory Council may conclude an MOA without SHPO involvement. However, if a THPO terminates consultation and the undertaking is on or affecting historic properties on tribal lands, the Advisory Council must provide its comments. The Departmental Office or Operating Unit shall submit appropriate documentation to the Advisory Council and request its comments. The Departmental Office or Operating Unit head must

take into account the Advisory Council's written comments in deciding how to proceed.

f. Resources and Training

- Advisory Council on Historic Preservation - Reference Materials
  - The Advisory Council offers technical publications that may be purchased to assist in satisfying the responsibilities for historic properties. See Appendix for websites or they may be obtained by contacting:

    Washington Office:
    Advisory Council on Historic Preservation
    Council on Historic Preservation
    The Old Post Office Building
    1100 Pennsylvania Ave., NW, #809
    Washington, DC 20004
    Phone: (202) 606-8503/8505
    Fax: (202) 606-8647/8672

    Denver Office:
    Advisory Council on Historic Preservation
    12136 West Bayau Avenue, Suite 330
    Lakewood, CO 80228
    Phone: (303) 969-5110
    Fax: (303) 969-5115

- National Park Service, U. S. Department of Interior Reference Materials
  - The National Park Service's Cultural Resources Programs has a number of technical publications, handbooks, technical leaflets, and related materials on historic preservation that are available from the U. S. Government Printing Office. The National Park Service, "Catalog of Historic Preservation Publications" lists all of these publications. This catalog can be obtained by contacting:

    The Heritage Preservation Services
    National Park Service
    1849 C St. NW, NC330
    Washington, DC 20240
    Phone: (202) 343-9583
    Fax: (202) 343-3921.

- National Preservation Institute (NPI) - Reference Materials
  - Provides training in Cultural Resource Management, Laws and Regulations, and Issues of Design and Application. NPI also provides technical assistance to public agencies, in the areas of compliance and project development. Contact NPI at:

P. O. Box 1702
Alexandria, Virginia 22313
(703) 765-0100.

- END -

CHAPTER 3.0 - SEISMIC SAFETY

SECTION 1. PURPOSE

.01 This Chapter outlines the objectives, requirements, and responsibilities for implementing and complying with the DOC's policy on Seismic Safety.

.02 The DOC is required to reduce risks to the lives of occupants of buildings owned and leased by the Federal Government and to persons who would be affected by the failures of DOC-owned and leased buildings in earthquakes; to improve the capability of essential DOC buildings to function during or after an earthquake; and to reduce earthquake losses of DOC buildings in a cost-effective manner.

SECTION 2. SCOPE

.01 Provisions of this Chapter apply to all Departmental Offices and Operating Units.

.02 The DOC is responsible for ensuring that all new DOC owned buildings are designed and constructed in accordance with appropriate seismic design and construction standards.

.03 The DOC shall ensure that a building constructed and leased for DOC use is designed and constructed in accordance with appropriate seismic design and construction standards. This requirement pertains to all leased building projects for which the agreement covering development of detailed plans and specifications is effected subsequent to the issuance of EO 12699.

.04 Each Departmental Office or Operating Units of the DOC assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings shall plan measures consistent with EO 12699, to assure appropriate consideration of seismic safety.

SECTION 3. DEFINITIONS

.01 Building - Any structure, fully or partially enclosed, used or intended for sheltering persons or property.

SECTION 4. REQUIREMENTS

.01 Executive Orders.

a. Executive Order 12699, *Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction*, dated January 5, 1990, establishes earthquake safety requirements for Federal buildings.

b. Executive Order 12941, *Seismic Safety of Existing Federally Owned or Leased Buildings*, dated December 1, 1994, requires that all Federal agencies provide cost estimates on mitigating risks in Federal buildings to the Federal Emergency Management Administration.

SECTION 5. RESPONSIBILITIES

.01 The Chief Financial Officer and Assistant Secretary for Administration is responsible for serving as the Senior Agency Official for the DOC's Seismic Safety Program.

.02 The Director, Office of Administrative Services, shall be responsible for developing policy and administering the DOC's Seismic Safety Program.

.03 The Associate Director, Office of Real Estate Policy and Major Programs, shall be responsible for managing the DOC's Seismic Safety Program.

.04 The DOC Chief, Energy, Safety and Environment Division shall be responsible for:

a. Developing and managing the DOC's Seismic Safety Program;

b. Preparing an annual report to the Director, Office of Administrative Services, on Seismic Safety issues and building survey results.; and

c. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs related to Seismic Safety.

.05 Departmental Offices and Operating Units shall be responsible for:

a. Complying with the laws, regulations, EOs, and directives forming the basis for this Manual, and cooperating with Federal, state, and local agencies to ensure the safety of occupants of buildings owned or leased by the DOC;

b. Planning, developing, and implementing all programs and activities in a manner consistent with appropriate seismic design and construction standards;

c. Coordinating with the appropriate legal counsel regarding all reports of liability, permits, agreements, notices of violations, and enforcement actions; and

d. Reporting annually to the DOC Chief, Energy, Safety, and Environment Divsion on seismic safety status of buildings located in seismically active regions.

SECTION 6. OBJECTIVES

.01 All new construction project designs are required to meet applicable codes for the facility location, including seismic safety codes.

- END -

CHAPTER 4.0 - ENVIRONMENTAL MANAGEMENT

CHAPTER 4.1 - ENVIRONMENTAL STEWARDSHIP

SECTION 1. PURPOSE

.01 This Chapter outlines the objectives, requirements, and responsibilities for implementing and complying with the DOC's policy to be good stewards of the environment, thereby protecting human health, property and the environment.

SECTION 2. SCOPE

.01 Provisions of this Chapter apply to all Departmental Offices and Operating Units.

SECTION 3. DEFINITIONS

.01 Hazardous Chemical - Any chemical which is a physical hazard or a health hazard.

a. Physical hazards include combustible liquids, compressed gases, explosives, flammables, organic peroxides, oxidizers, pyrophorics, and reactives.

b. Health hazards include carcinogens; toxic or highly toxic agents; reproductive toxins; irritants; corrosives; sensitizers; hepatotoxins; nephrotoxins; and agents that damage the lungs, skin, eyes or mucous membranes.

.02 Hazardous Material - substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce.

SECTION 4. REQUIREMENTS

.01 Executive Order 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*, dated January 24, 2007, obligates the Secretary of Commerce responsible to ensure all necessary actions are taken to integrate environmental accountability into day-to-day decision-making and long-term planning processes across all activities and functions of the DOC. Consequently, sound environmental management considerations must be a fundamental and integral component of the DOC's operations, plans, and management.

SECTION 5. RESPONSIBILITIES

.01 The Chief Financial Officer/Assistant Secretary for Administration is responsible for:

a. Serving as the Agency Environmental Executive for programs requiring such designation, as appointed by the Secretary, pursuant to Section 3(d) of EO 13423.

b. See also Appendix A for a complete listing of all relevant Environmental Laws, Statutes, and regulations.

.02 The Director, Office of Administrative Services, shall be responsible for:

a. Ensuring that environmental policy, guidance, and direction comply with the Federal laws, regulations, and EOs listed in Appendix A. The requirements of any policy must be consistent with and no less stringent than the requirements of Federal, state, or local laws;

b. Establishing and promotes environmental policy, guidance, and direction; and

c. Performing an annual review of the DOC's environmental management and compliance programs.

.03 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's environmental stewardship program;

b. Providing oversight to ensure Department-wide compliance with environmental policies;

c. Providing environmental expertise, guidance, management support, and education to Departmental Offices and Operating Units;

d. Serving as the primary point of contact for environmental management and compliance within the DOC;

e. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to Environmental Stewardship;

f. Serving as the DOC's representative at meetings and on intra-agency and inter-agency committees pertaining to environmental management and compliance;

g. Developing funding strategies and priorities for Department-level environmental programs;

h. Preparing DOC reports as required by the Manual and the Federal laws, regulations, and EOs listed in Appendix A; and

i. Measuring and reporting Department-wide environmental compliance.

.04 The Director, Office of Acquisition Management, shall be responsible for:

a. Developing acquisition policy to ensure procurement of material designed to lessen environmental impacts throughout its lifecycle, while ensuring operational effectiveness;

b. Encouraging the integration of environmental issues into acquisition training programs; and

c. Establishing procurement policies that encourage the acquisition and use of environmentally preferable products and services, recovered/recycled products and energy efficient products.

.05 The Office of General Counsel shall be responsible for:

a. Providing legal advice to the DOC and its Operating Units on environmental matters, except where specifically provided otherwise;

b. Representing the DOC at meetings and intra-agency and inter-agency committees on matters of environmental law;

c. Acting as agency counsel in defense of the DOC in litigation or threatened litigation, except where specifically provided otherwise; and

d. Reviewing reports, responses, and other communications for legal sufficiency as appropriate or required.

.06 The Office of Occupational Safety and Health provides safety and occupational expertise and guidance on matters that affect the health and welfare of Departmental employees.

.07 Heads of Departmental Offices and Operating Units shall be responsible for:

a. Ensuring all necessary actions are taken to integrate environmental accountability into day-to-day decision-making and long-term planning processes across all Operating Unit activities and functions;

b. Implementing and supporting the policies and procedures established by this Manual;

c. Establishing policy, guidance, and direction to manage the Operating Units' compliance with the Federal laws, regulations, and EOs listed in Appendix A. The requirements of all Operating Unit policy must be consistent with, and no less stringent than, the requirements of this Manual and Federal law;

d. Informing the Chief Financial Officer/Assistant Secretary for Administration, through the DOC's Environmental Manager, of the status of the Operating Units' environmental management and compliance program;

e. Advising the Chief Financial Officer/Assistant Secretary for Administration of significant actions undertaken or anticipated by the Operating Unit to ensure compliance with the Federal laws, regulations, and EOs listed in Appendix A of this Manual;

f. Notifying the Office of the Assistant General Counsel for Finance and Litigation immediately of, and provide copies of, any criminal indictment or information, enforcement action, EPA notice of Potential Liability and/or Request for Information Letter issued under the Comprehensive Environmental Response, Compensation and Liability Act or the Resource Conservation and Recovery Action (RCRA), Notice of Intent to Sue, Summons, and Complaint, or any similar correspondence from Federal, state or local agencies or litigants exposing the Operating Unit activities to litigation. Notification of such matters shall also be sent to the DOC Environmental Manager;

g. Notifying the DOC Environmental Manager of any requests received from Federal, state, or local agencies for documentation related to the DOC's or the Operating Unit's environmental management and compliance programs (i.e., inspections, enforcement actions, consent orders, assessments, etc.);

h. Ensuring compliance with all Federal laws, regulations, and EOs listed in Appendix A through external and internal assessments, audits, reviews, and surveys;

i. Supporting training programs for environmental management and compliance personnel;

j. Performing an annual review of the Operating Unit's environmental management and compliance programs; and

k. Designating, in writing, an environmental point of contact to oversee and manage environmental leadership. Submit (electronic versions acceptable) a letter to the DOC Environmental Manager, with the name, phone number, address, email address of the environmental point of contact and office along with other points of contact for environmental matters. Provide an update when changes occur.

SECTION 6. OBJECTIVES

.01 Reduce the use of hazardous materials, substances or chemicals, the generation or release of pollutants and hazardous wastes, and the adverse effects on human health and the environment caused by Operating Unit activities.

.02 Reduce pollution through improvements in energy and water efficiency, the use of alternative fuels, and other initiatives that improve resource utilization.

.03 Emphasize pollution prevention, including improvements in energy and resource utilization, as the "first choice" in achieving compliance with applicable environmental requirements and EOs.

.04 Reduce the life cycle costs of equipment and materials by avoiding the use of hazardous chemicals and substances.

.05 Plan, program, and budget to meet Departmental environmental management and program objectives and targets.

.06 Establish and execute cost-effective waste prevention and recycling programs to reduce the volume and/or toxicity of acutely hazardous, hazardous, and regulated RCRA Subtitle C solid waste.

.07 Promote the use of environmentally preferable products, to the maximum extent practical, by revising specifications and standards.

- END -

CHAPTER 4.2 - ENVIRONMENTAL COMPLIANCE AND REPORTING

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, objectives, and targets for reporting environmental compliance to the DOC Environmental Manager.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all applicable Departmental Offices and Operating Units.

SECTION 3. DEFINITIONS

.01 Enforcement Action - A formal, written notification by the Environmental Protection Agency or other authorized Federal, state, or local environmental regulatory authority of violation of any applicable statutory or regulatory requirement. Enforcement action does not include warning letters, informal notices of deficiencies, or notices of deficiencies to permit applications. All infractions of a separate statutory or regulatory requirement constitute a separate enforcement action, even if addressed in a single notice. Items found to be out of compliance during an internal audit are not included in this definition of enforcement action.

.02 Open Enforcement Action - An enforcement action where a formal, written notice has been issued but is not yet closed by one of the resolutions described under the definition of closed enforcement action.

.03 Closed Enforcement Action - An enforcement action that has been resolved by one of the following:

a. Revocation of the action by the regulating authority;

b. Closure of the action following written notice from the regulating authority that the action is closed or resolved;

c. Closure of the action, after a reasonable time span, following written notice from the regulating authority of their intent to close the enforcement action;

d. Receipt of a signed compliance agreement order; or

e. Approval from the DOC Environmental Manager to close the finding.

.04 Significant Environmental Event - A noteworthy environmental occurrence (positive or negative) that may be of interest to or require a "timely and appropriate" response from the Operating Unit or Department. Such occurrences may involve compliance with environmental statutes, criminal environmental enforcement actions, major oil and/or chemical emergencies or spills, or assessed fines and/or penalties.

SECTION 4. REQUIREMENTS

.01 See Appendix A for a complete listing of all relevant Environmental Laws, Statutes, and regulations as numerous statutes and Federal regulations include compliance and/or reporting requirements.

SECTION 5. RESPONSIBILITIES

.01 The Chief Financial Officer/Assistant Secretary for Administration (CFO/ASA) is responsible for managing the DOC environmental compliance program.

.02 The Director, Office of Administrative Services, shall be responsible for participating in periodic interagency meetings of Senior Officials.

.03 The Associate Director, Office of Real Estate Policy and Major Programs shall be responsible for developing policy for and overseeing the DOC's environmental compliance program.

.04 The DOC Environmental Manager shall be responsible for:

a. Tracking and report Department and Operating Units' environmental compliance status to the CFO, through the Director, Office of Administrative Services, on an annual basis or as required;

b. Developing reporting requirements that facilitate Environmental Protection Agency and Office of the Environmental Executive reporting requirements such as, but not limited to, EO 13423, *Strengthening Federal Environmental, Energy and Transportation Management* and the Resource Conservation and Recovery Act reports;

c. Annually developing and forwarding reporting requirements to the Operating Units; and

d. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to environmental compliance.

.05 Operating Units shall be responsible for:

a. Providing the DOC Environmental Manager with the number of open enforcement actions, as well as previously reported enforcement actions which have been closed since the last quarterly report, and include a description of violations and actions that have been or will be taken to correct violations;

b. Providing the DOC Environmental Manager a report on any significant environmental events such as reportable spills, accidents, releases, notices of violations, and regulatory actions that could reflect negatively on the DOC; and

c. Providing the DOC Environmental Manager with pollution prevention initiatives undertaken while performing other environmental programs such as the implementation of environmental management systems or EO reporting requirements.

SECTION 6. OBJECTIVES

.01 Achieve full and complete compliance with applicable Federal, state, and local environmental laws and regulations, and EOs.

.02 Strive for continual environmental improvement in terms of regulated and unregulated impacts.

.03 Maximize source reduction, recycling, or other pollution prevention approaches as practical.

.04 Establish, track, and review environmental performance goals.

SECTION 7. MAJOR PROGRAMS REQUIREMENTS AND PROCEDURES

.01 Environmental programs must achieve, maintain, and monitor compliance with all applicable Federal, state, and local laws and requirements, both substantive and procedural (hereafter referred to collectively as "environmental requirements"). This includes compliance with requirements in statutorily mandated or authorized documents, such as permits, judicial decrees, or consent or compliance agreements that seek to preserve, protect, or enhance human health and/or the environment.

a. Operating Units will plan, program, and budget to achieve, maintain, and monitor compliance with applicable environmental requirements;

b. When applicable and cost effective, use environmental projects, preferably pollution prevention and waste minimization, to offset fines and penalties, where appropriate and allowed by law;

c. Operating Units will pay reasonable fees or service charges to Federal, state, and local Governments for compliance costs or activities except where such fees are:

- Discriminatory in either application or effect;
- Used for a service denied to a Federal agency;
- Assessed under a statute in which the Federal sovereign immunity has not been unambiguously waived;
- Disproportionate to the intended service or use; or
- Determined to be a Federal, state or local tax. (The legality of all fees shall be evaluated by appropriate legal counsel.)

d. Report all information required by applicable statutes, regulations, permits, orders, and agreements; and

e. Promptly correct any environmental violations discovered and appropriately remedy any harm done.

- END -

CHAPTER 4.3 - ENVIRONMENTAL FUNDING

SECTION 1. PURPOSE

.01 This Chapter prescribes the policy, objectives, and targets for environmental funding.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to environmental budget items identified in this Chapter and throughout this Manual.

SECTION 3. DEFINITIONS

.01 Environmental Budget Items - Amounts paid for goods and services that are environmental in nature. Examples include expenses paid for ENERGY STAR certified heating and air conditioning equipment or water saver faucets. These are items that help the DOC comply with environmental statutes.

SECTION 4. REQUIREMENTS

.01 Compliance with Federal, state, or local environmental laws is the utmost priority and a violation must be expeditiously corrected using any and all available appropriations.

SECTION 5. RESPONSIBILITIES

.01 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the Departmental environmental funding program;

b. Reviewing Departmental Office's and Operating Unit's environmental budget items and making recommendations for improving justifications, where appropriate;

c. Using the budget information to defend budget requests at the DOC level and build a historical record of environmental funding; and

d. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to Environmental Funding.

.02 Departmental Offices and Operating Units shall be responsible for submitting budget information regarding environmental compliance to the DOC Environmental Manager for review and comment.

SECTION 6. OBJECTIVES

.01 Create strong justification for environmental budget items in order to successfully compete for limited resources.

.02 Follow prescribed budget preparation guidance and requirements provided by the Office of Management and Budget and the DOC.

- END -

CHAPTER 4.4 - ENVIRONMENTAL AUDITS

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, objectives, and targets for conducting and reporting environmental audits.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all applicable Departmental Offices and Operating Units.

SECTION 3. DEFINITIONS

.01 Environmental Audit - A formal periodic assessment of environmental compliance, conducted onsite using established protocols such as the United States Army, Engineering Research Development Center, Construction Engineering Research Laboratory, *The Environmental Audit Manual (TEAM) Guide* or other protocol approved by the Head of the Operating Unit or designated authority.

a. External Environmental Audits - Audits conducted by personnel not directly associated with the evaluated activities. One representative from the Operating Unit or Department environmental office should be a member of each external audit team.

b. Internal Environmental Audit - Audits conducted by personnel from the facility being audited.

SECTION 4. REQUIREMENTS

.01 Statutes.

a. Clean Water Act (CWA). The CWA was amended to require the establishment of a program to address storm water discharges. In response, EPA promulgated the National Pollutant Discharge Elimination System (NPDES) storm water permit application regulations. regulations require that facilities with the following storm water discharges apply for an NPDES permit: (1) a discharge associated with industrial activity; (2) a discharge from a large or medium municipal storm sewer system; or (3) a discharge which EPA or the state/tribe determines to contribute to a violation of a water quality standard or which is a significant contributor of pollutants to waters of the United States.

b. Emergency Planning and Community Right-to-Know Act (EPCRA). EPCRA governs proper procedures for hazardous chemicals. Under the Act, businesses are required to have emergency plans, report chemical inventories, and notify authorities in the event of a toxic release. EPCRA has four major provisions: emergency planning, emergency release notification, community right-to-know (hazardous chemical inventory) reporting, and toxic chemical release inventory reporting. For each provision, there are thresholds, based on chemical quantities, that trigger applicability.

c. Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Delegates EPA the responsibility to regulate the sale, distribution, and release of pesticides, pesticide products, and pesticide devices. Registration includes approval by the EPA of the

pesticide's label, which must give detailed instructions for its safe use. The EPA must classify each pesticide as either "general use," "restricted use," or both. "General use" pesticides may be applied by anyone, but "restricted use" pesticides may only be applied by certified applicators or persons working under the direct supervision of a certified applicator.

d. Resource Conservation and Recovery Act (RCRA). RCRA established a national policy that encourages reduction or elimination of the generation of hazardous waste as expeditiously as possible, wherever feasible. Any waste generated should be treated, stored, and disposed of in ways that minimize future threats to human health and the environment.

e. Safe Drinking Water Act (SDWA). SDWA ensures the quality of Americans' drinking water by allowing the EPA to set standards for drinking water quality and to oversee the states, localities, and water suppliers who implement those standards.

f. Toxic Substance Control Act (TSCA). TSCA was enacted by Congress to give EPA the ability to track the 75,000 industrial chemicals currently produced or imported into the United States. These chemicals are repeatedly screened by EPA who can require reporting or testing of those chemicals that may pose an environmental or human-health hazard. Those chemicals posing unreasonable risks can be banned. TSCA also governs facilities with PCBs, asbestos, and lead-based paint.

.02 Executive Orders.

a. EO 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*. EO 13423 combines the Federal environmental, energy and transportation goals in one executive order. The energy requirements include a 3% annual reduction in energy consumption, or 30% by 2015; and 50% of the renewable energy must be from new renewable sources (in service after January 1, 1999). Other provisions include reducing (potable) water consumption by 2% per year, or 16% by 2015, and constructing or renovating buildings in accordance with sustainable strategies.

SECTION 5. RESPONSIBILITIES

.01 DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's environmental audit program;

b. Establishing policy and guidance to ensure appropriate facilities are audited for environmental compliance at least once every three years; and

c. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to environmental audits.

.02 Operating Units shall be responsible for:

a. Ensuring the audit program includes provisions to develop and track solutions to problems identified during environmental compliance audits;

b. Ensuring environmental audits include assessing compliance with Resource Conservation and Recovery Act, Section 6002 (42 U.S.C. § 6962), buy-recycled requirements and include assessment of environmental management systems (EMS) criteria;

c. Scheduling external environmental audits for the facilities under their control that possess a high likelihood for a significant environmental event and/or a higher magnitude of consequence should an event occur;

d. Providing annually a schedule of external audits to the DOC Environmental Manager; and

e. Reporting or making available the status of any audit findings to the DOC Environmental Manager.

SECTION 6. OBJECTIVES

.01 Perform external audits at appropriate facilities once every three years.

SECTION 7. MAJOR PROGRAM PROCEDURES

.01 Environmental audits must be designed to enable an Operating Unit to regularly evaluate its environmental compliance performance and identify problems areas and potential violations before corrective action becomes necessary or, if it is already required, to assure timely and adequate responses.

.02 Environmental audits should identify the root causes of environmental audit findings and recommend corrective actions to prevent future problems.

.03 Environment audits should identify the root causes of environmental audit findings and recommend corrective actions to prevent future problems.

.04 Audit findings shall be described as one of the following classes:

a. Class 0 (significant): A finding categorized as significant or class 0 requires immediate action. It poses, or has a high likelihood of posing, a direct and immediate threat to human health, safety, the environment, or the operation of the facility. When significant findings occur, the facility must take immediate action to resolve the problem or shut down the particular process or operation creating the situation.

b. Class 1 (major): A finding categorized as significant or class 1 indicates a situation where the facility is currently out of compliance with an existing environmental law or has received an enforcement action from a Federal, state or local authority, or is likely to receive an enforcement action if no corrective action is taken. Major findings require future actions to avoid potential threats to human health, safety, the environment, or the operation of the facility.

c. Class 2 (minor): A finding categorized as minor or class 2 indicates a situation where the facility is presently in compliance, but may become non-compliant in the relatively near future. Minor findings can be administrative and procedural in nature.

d. Class 3 (management practice): A finding categorized as a management practice or class 3 indicates a situation where the audit team recommends implementation of a best management practice to assist a facility in maintaining or enhancing environmental compliance performance. These recommendations are not based on environmental regulations and do not involve non-compliance. Instead, they are designed to help keep a facility ahead of compliance.

e. Positive: A finding categorized as positive indicates a unique or creative management technique to achieve compliance or improve operations to minimize environmental impact. The purpose of formally documenting a positive finding is to share the information with other Department facilities.

.05 Audit findings identified as class 0 through class 3 should also be described as one of the following:

a. Carryover Finding: A carryover finding is a finding that was observed and documented in a previous audit and remains open.

b. Repeat Finding: A repeat finding is a finding that was identified and documented during a previous audit and closed prior to the most current audit, but the same condition has recurred. This type of finding indicates improper action was taken to close the finding or the facility documented closure without taking action.

c. New Finding: A new finding is a finding that was not observed and documented in the previous audit.

.06 Operating Units must determine the frequency that internal audits will be conducted.

.07 Internal environmental audits should be incorporated into the applicable EMS.

.08 Operating Units shall forward external audit result information within 60 days from date of audit to the DOC Environmental Manager and include the following:

a. Name and location of facility audited;

b. Date audit was completed;

c. The number of individual audit findings by class; and

d. The number of carryover, repeat, and new audit findings.

.09 Immediately report any class 0 audit findings to the DOC Environmental Manager. Include the following in the notification:

a. Location and brief description of the audit finding; and

b. Short-term and/or long-term action needed to correct or mitigate the hazard identified in the audit findings.

- END -

CHAPTER 4.5 - ENVIRONMENTAL MANAGEMENT SYSTEM

SECTION 1. PURPOSE

.01 This Chapter prescribes the objectives, policies, and responsibilities for implementing and maintaining an environmental management system (EMS).

SECTION 2. SCOPE

.01 Provisions of this Chapter apply to all Departmental Offices and Operating Units.

SECTION 3. DEFINITIONS

.01 Appropriate Facility - An appropriate facility for implementing an EMS is any Departmental property, properties, organization or operation that conducts activities that can have a significant impact on the environment.

.02 Environmental Impact - An environmental impact is any change (complete or partial) to the environment, whether adverse or beneficial, resulting from the facility's functional mission or activities.

.03 Environmental Management System - An EMS is that component of any organization's overall management system that takes into account organizational structure, planning, activities, procedures, processes, and resources for developing, implementing, achieving, reviewing, and maintaining environmental programs and policy. It serves as a tool for improving overall environmental performance. An EMS integrates responsibilities and practices into an overall management system to increase efficiency while reducing environmental affairs by:

a. Identifying and addressing immediate, cumulative and long-term environmental results of missions, services and processes; and

b. Providing order and consistency in addressing environmental impacts through the allocation of resources, assignment of responsibility and ongoing evaluation of practices, procedures, and processes.

.04 Environmental Policy - Environmental policy refers to a statement of intent by the top management of an organization and/or facility to take environmental impacts into account, and presents proof of top management's commitment to developing and implementing an EMS.

SECTION 4. REQUIREMENTS

.01 Executive Order 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*, dated January 26, 2007, and the Secretary's memorandum, subject "Environmental Management Systems," dated April 22, 2003. A copy of this memorandum is available at:

www.osec.doc.gov/oas/environmental/ ems.htm.

.02 EMSs shall be based on the framework of the International Organization for Standards (ISO) 14001, the Environmental Protection Agency (EPA) Code of Environmental Management Principles, or a standard approved by the Head of the Operating Unit.

.03 Facilities implementing an EMS will use ISO 14001 standards to validate that the EMS has been fully implemented.

SECTION 5. RESPONSIBILITIES

.01 The Secretary of Commerce is responsible for establishing environmental policy for the DOC. Current environmental policy is established by the Secretary's memorandum, subject "Environmental Management Systems," dated April 22, 2003. A copy of this memorandum is available at www.osec.doc.gov/oas/environmental/ems.htm.

.02 Director, Office of Budget, is responsible for establishing and issuing EMS funding policy and/or guidance as appropriate.

.03 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's EMS program;

b. Tracking and reporting the progress of EMS implementation to the senior management and others as appropriate;

c. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to Environmental Management Systems; and

d. Preparing and submitting reports to OMB and DOE on the environmental management scorecard.

.04 The Heads of all Departmental Offices and Operating Units, as appropriate, shall be responsible for:

a. Establishing an environmental policy that is consistent with the Secretary's policy. This environmental policy shall reflect the nature and scale of the Operating Unit's activities and embody commitment to compliance with laws and applicable requirements, preventing pollution, and continual improvement;

b. Identifying the appropriate facilities that will implement an EMS;

c. Communicating the EMS policy statement to all staff and make it available to the public;

d. Establishing EMS training programs;

e. Providing adequate resources to ensure proper implementation of an EMS;

f. Annually reviewing and updating the EMS and goals;

g. Encouraging knowledge and understanding by all personnel of EMS requirements through comprehensive education, training, and awareness programs; and

h. Reporting to the DOC Environmental Manager on the EMS metrics.

SECTION 6. OBJECTIVES

.01 Develop and implement an EMS at appropriate facilities by December 31, 2008.

.02 Annually, facilities implementing an EMS will report progress towards achieving their EMS objectives and targets.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 An effective EMS requires clear articulation of environmental responsibilities across the various elements of an organization. Environmental responsibilities cannot be confined to the environmental office or a designated office, they must be recognized as a prime responsibility of all employees.

.02 Environmental objectives and targets must describe the Operating Unit's goals for improving environmental performance. Examples of improved environmental performance or objectives include, as applicable, reducing air emissions, eliminating hazardous chemical/materials use, conserving raw materials, or reducing incidences of non-compliance. Targets are specific and measurable intermediate steps that can be measured in terms of obtaining the objectives. An example is "Achieving a 50% reduction in releases of certain toxic substances within two years." Various EOs (see Appendix A for a list of EOs) and this Manual provide objectives and targets that must be adopted.

.03 Operating Units or appropriate facilities senior managers must establish a procedure schedule for reviewing their applicable EMS. These reviews must be accomplished at least annually.

a. This review should be designed to allow a phased approach, continual improvement, and consideration of changes in the Operating Units' programs.

b. Annual reviews will vary according to the size and nature of the appropriate facility and how stable or dynamic the external influences are within the organization.

.04 For the purpose of conformance to EO 13423, an EMS shall be considered fully implemented when:

a. It has been the subject of a formal audit by a qualified party outside the control or scope of the EMS,

b. Audit findings have been recognized by the appropriate level of the agency implementing the EMS, and

c. The appropriate senior manager accountable for implementation of the EMS has declared conformance to EMS requirements.

.05 Audits. Once conformance has been declared, the EMS shall then be audited by a qualified party outside of the control or scope of the EMS at least every three years from the date of the initial declaration. Conformance declaration shall be renewed as appropriate.

.06 Annually, appropriate facilities will forward to the DOC Environment Manager:

a. List of their EMS objectives and targets;

b. Summary of the actions/initiatives taken to achieve objective and targets; and

c. Current status towards achieving those objectives and targets.

- END -

CHAPTER 4.6 - POLLUTION PREVENTION PROGRAM

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, responsibilities, and objectives to implement pollution prevention programs throughout the DOC.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Departmental Offices and Operating Units.

.02 The provisions of this policy do not apply to the following:

a. Procurement, use, generation, storage, processing, disposal, or management of radioactive materials; or

b. Additional pollution prevention requirements for transportation-related onshore and offshore facilities and vessels that are regulated by the United States Coast Guard.

SECTION 3. DEFINITIONS

.01 Ozone-depleting substance - An ozone-depleting substance (ODS) is any substance designated as a Class I or Class II substance by the EPA in 40 CFR 82, examples include the following:

a. Class I ODSs include any substance designated as Class I by the EPA pursuant to 42 U.S.C. 7671(a), including but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; and

b. Class II ODSs include any substance designate as Class II by the EPA pursuant to 42 U.S.C. 7671(a), including, but not limited to, hydrochlorofluorocarbons.

.02 Pollution Prevention - Pollution prevention is a practice that reduces or eliminates the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources; or the protection of natural resources by conservation.

.03 Source Reduction - Source reduction does not entail any form of waste management (e.g., recycling and treatment). Source reduction includes equipment or technology modifications; process or procedure materials; and improvements in housekeeping, maintenance, training, or inventory control and is a practice that:

a. Reduces the amount of any hazardous substance, pollutant, or contaminant that enters any waste stream or otherwise is released into the environment (including fugitive emissions) prior to recycling, treatment, and disposal; or

b. Reduces the hazards to public health and the environment associated with the release of hazardous substances, pollutants, or contaminants.

.04 Waste Minimization - Waste minimization is the practice of source reduction or recycling. Waste minimization does not include waste treatment, transfer of waste constituents from one environmental medium to another, concentration or dilution of waste, or disposal of waste.

SECTION 4. REQUIREMENTS

.01 Statutes.

a. Resource Conservation and Recovery Act (RCRA)(42 U.S.C. 6901, et. seq.). Section 1003 (b) of RCRA established a national policy that encourages reduction or elimination of the generation of hazardous waste as expeditiously as possible, wherever feasible. Any waste generated should be treated, stored, and disposed of in ways that minimize future threats to human health and the environment.

b. Pollution Prevention Act of 1990 (42 U.S.C. 133, et. Seq.). Section 6602 (b) of the Pollution Prevention Act clarified the national pollution prevention policy by setting priorities for preventing pollution. Pollution prevention priorities are ranked preferred to least preferred as follows:

- Pollution should be prevented or reduced at the source, whenever feasible.
- Pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible.
- Pollution that cannot be prevented or recycled should be treated in an environmentally safe manner, whenever feasible.
- Disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

c. Clean Air Act (42 USC 7401-7642). Title VI of the Clean Air Act set phase-out schedules for certain classes of Ozone Depleting Substances (ODSs) along with aggressive recycling requirements for ODSs.

.02 Executive Orders.

a. Executive Order 13423, *Strengthening Federal Environmental, Energy, and Transportation Management.* In this EO, EPA established a Priority Chemical List that targeted chemicals in specific uses for a 50% reduction by December 31, 2010. This reduction can be achieved by establishing a policy to eliminate the chemicals in the specific uses contained in EPA Priority Chemical List. The EPA Priority Chemical List reduction program requirements and procedures include the following steps:

- Identify the processes within the organization that operate the specific chemical listed on the EPA Priority Chemical List;
- Determine if the priority chemical is used in the process;
- Calculate or estimate the 2005 baseline quantities of the chemicals by researching past reports, purchasing records, and other documents; and
- Replace existing use with a process that uses a non-priority chemical or substitute the priority chemical with a less hazardous chemical. Table 4.6-2 contains suggested alternatives to the listed uses and/or chemicals on EPA Priority Chemical List.

SECTION 5. RESPONSIBILITIES

.01 DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's pollution prevention program;

b. Preparing and submitting annual RCRA report to EPA; and

c. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to pollution prevention.

.02 Department Offices and Operating Units shall be responsible for:

a. Submitting the following information, annually to the DOC Environmental Manager:

- Status of plan to eliminate Class I ODS;
- Pollution prevention initiatives undertaken during the past quarter along with results of the initiatives; and
- The 2005 baseline chemicals and progress towards achieving the 50% reduction or the policy eliminating the chemicals in the uses listed in Table 4.6-1.

b. Reducing the generation or release of pollutants, and the adverse effects on human health and the environment through pollution prevention and waste minimization

c. By December 31, 2010, eliminating the priority chemicals in specific uses identified in the EPA Priority Chemical List (Table 4.6-1 on page 50) or reduce the amount of the priority chemicals by 50% from a 2005 baseline;

d. By December 31, 2010, phasing out procurement of Class I ozone-depleting substances for anon-excepted uses;

e. Establishing and executing cost-effective pollution prevention programs to reduce the volume of hazardous waste, and provide reports as needed; and

f. Reducing the use of ozone-deleting substances.

SECTION 6. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 The DOC emphasizes pollution prevention, including improvements in energy and resource utilization, as the "first choice" in achieving compliance with applicable environmental requirements as required in EO 13423.

.02 Department Offices and Operating Units will incorporate pollution prevention and waste minimization into all phases of equipment and materials acquisition, operations, maintenance, support and disposal over the system life-cycle.

SECTION 7. REPORTS

.01 RCRA Report. Details waste management strategies for complying with EO 13423.

SECTION 8. OTHER INFORMATION

.01 EPA Priority Chemical List.

Table 4.8-1: EPA Priority Chemical List

Use	Chemical	Limitations/Exceptions	Reporting Thresholds	Reporting Measurements
Temperature and pressure monitoring devices (medical and industrial)	Mercury	Exempt where called for in 3rd party specifications or Certifications such as ASTM, NIST, EPA	0 Pounds	Pounds of Mercury
Switches	Mercury	Only for new construction, Renovation in facilities and Replacement in hardware.	0 Pounds	Pounds of Mercury
Electroplating Processes	Cadmium	None	0 Pounds	Pounds of Cadmium used
Tin/Lead Soldering (electrical & electronic components)	Lead	Repair and re-work Operations only.	0 Pounds	Pounds of lead solder used
Pesticides	Naphthalene	None	0 Pounds	Pounds of Naphthalene used
Insulating materials (dielectric fluids in transformers and ballasts)	PCBs	None	0 Pounds	Pounds of PCBs In fluid

Table 4.8-2: Suggested Alternatives

Use	Chemical	Suggested Alternatives
Temperature and pressure monitoring devices (medical and industrial)	Mercury	Aneroid manometers-digital and electronic temperature measuring devices
Switches	Mercury	Electronic thermostats, mechanical switches, Ultrasonic and photoelectric sensors
Electroplating Processes	Cadmium	Alternative metal coating, metal deposition, flame coating, limited area plating
Tin/Lead Soldering (electrical & Electronic components)	Lead	Tin copper eutectic, ting silver eutectic
Pesticide	Naphthalene	Integrated Pest Management techniques including process changes

.02 While the term pollution prevention often is used interchangeably with waste minimization, there are some differences. Pollution prevention is a broader term than waste minimization in that pollution prevention encompasses all pollutants, including air emissions, wastewater and solid wastes; energy and water consumption; and initial product design. In addition, while both terms encompass source reduction, certain types of recycling are considered waste minimization, but not pollution prevention. Generally, only closed-loop recycling, where chemicals are recycled or reused without being removed from the process, is considered pollution prevention. Off-site recycling, where wastes are taken from the process and recycled at another facility or a different area of the same facility, falls within the definition of waste minimization, but is not considered pollution prevention.

.03 Source reduction can be achieved by equipment or technology modification, process or procedure modification, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

.04 The EPA does not consider all recycling practices to be environmentally sound recycling for waste minimization purposes. In general, the EPA does not consider recycling activities that closely resemble conventional waste management activities to be waste minimization. An example includes treatment of wastes for the purposes of destruction or disposal. Certain other forms of waste treatment also are not considered waste minimization, to include:

a. Transfer of hazardous constituents from one environmental medium to another, such as use of an air stripper to evaporate volatile organic constituents from an aqueous waste into the air;

b. Concentration activities conducted solely for reducing waste volume, unless concentration is an integral step in recovering useful constituents from the waste prior to treatment and disposal; and

c. Dilution of waste to reduce toxicity, unless dilution is a necessary step in a recovery or recycling operation.

- END -

CHAPTER 4.7 - HAZARDOUS CHEMICALS AND MATERIALS

SECTION 1. PURPOSE

.01 The Chapter prescribes the policies, responsibilities, and objectives for:

a. The storage and use of chemical and, where applicable, the spill contingency and response requirements for hazardous or regulated chemicals in a manner consistent with applicable Federal, state and local laws and regulations; and

b. Affirmative procurement programs for the acquisition of the items with the highest percentage of recovered materials practicable consistent with EPA guidelines.

.02 Oils, pesticides, asbestos and asbestos-containing materials and underground and aboveground storage tanks require special management practices that are addressed in subsequent chapters of this Manual.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Departmental Offices and Operating Units that store, handle, and purchase hazardous or regulated chemicals.

SECTION 3. DEFINITIONS

.01 Hazardous Chemical/Material - For the purposes of this Chapter, a hazardous or regulated chemical or material is:

a. Any chemical or material defined as hazardous in 29 CFR 1910 or 1026;

b. Any item or chemical which is reportable or potentially reportable as inventoried under the requirements of hazardous chemical reporting, i.e., 40 CFR 355, 370 and or 372; or

c. Any item or chemical which, when being transported or moved on public roads, is a risk to public health or safety or an environmental hazard and is regulated by, but not limited to, the following requirements:

- Department of Transportation Uniform Safety Act (49 CFR 100-185), as amended;
- International Maritime Dangerous Goods Code of the International Maritime Organization, as amended;
- Dangerous Goods Regulations of the International Air Transport Association, as amended; and
- Technical Instructions of the International Civil Aviation Organization, as amended.

SECTION 4. REQUIREMENTS

.01 Numerous environmental laws and regulations govern the storage, use, and disposal of hazardous chemicals. While not intended as an exhaustive list, the following Federal regulations are applicable to hazardous chemicals.

.02 Statutes.

a. Comprehensive Environmental Response, Compensation and Liability Act, as amended;

b. Superfund Amendments and Re-authorization Act (42 U.S.C. 9601, et. seq.);

c. Emergency Planning and Community Right-to-Know Act (EPCRA)(42 U.S.C. 11001, et. seq.);

d. Hazardous Materials Transportation Act (49 U.S.C. 5101, et. seq.);

e. Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et. seq.);

f. Occupational Safety and Health Act (29 U.S.C. 651, et. seq.); and

g. Resource Conservation and Recovery Act (42 U.S.C. 6901, et. seq.);

.03 Code of Federal Regulations.

a. 29 CFR 1910 Occupational Safety and Health Standards;

b. 29 CFR 1926 Safety and Health Regulations for Construction;

c. 33 CFR Navigation and Navigable Waters; and

d. 40 CFR Protection of Environment.

SECTION 5. RESPONSIBILITIES

.01 The DOC Environmental Manager shall be responsible for:

a. Coordinating with the DOC and Operating Unit Safety Offices on the use and storage of hazardous chemicals;

b. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to hazardous chemicals.

.02 Heads of Operating Units that use, store and/or handle hazardous chemicals/materials shall be responsible for:

a. Implementing a Hazardous Chemicals/Materials Management Plan and/or Chemical Hygiene Plan to ensure that hazardous and regulated chemicals/materials are used, stored, handled, and disposed of appropriately;

b. Ensuring employees are trained in the proper use, handling, and storage of hazardous chemicals/waste;

c. Maintaining, and make readily available, Material Safety Data Sheets (MSDS) for each hazardous chemical/material on-site. The use of the internet for access to the MSDS databases is allowed as defined in OSHA 29 CFR 1910 and 1926; and

d. Providing annual reports to the Department Environmental Manager on the status of the Hazardous Chemicals/Materials Management Plan and/or Chemical Hygiene Plan for inclusion in the RCRA Report.

.03 Department Operating Units that handle, use, and/or store hazardous or regulated chemicals shall be responsible for:

a. Following legally applicable, relevant and appropriate Federal, state and local regulations related to hazardous chemicals/materials;

b. Applying best management practice to reduce risk to human health and the environment from hazardous chemicals/materials. These practices will be applied throughout the life cycle of the hazardous chemicals/materials;

c. Avoiding, reducing, or eliminating the use of hazardous chemicals/materials and the generation of regulated hazardous waste. Apply improved procurement practices and inventory control to prevent regulated hazardous waste generation through material spoilage, shelf-life expiration, or improper inventory control;

d. Minimizing the use of hazardous chemicals/materials through proactive pollution prevention actions and affirmative procurement programs;

e. Notifying the DOC Environmental Manager of any known or suspected violations of any applicable Federal, state or local laws or regulations related to hazardous chemicals/materials;

f. Managing and removing polychlorinated biphenyl (PCB) items in accordance with 40 CFR 761;

g. Complying with all the provisions of EPCRA (40 CFR 355, 370, and 372), to include maintaining an inventory and submitting required reports to the appropriate Federal, state and local emergency planning commissions, and the EPA; and

h. Providing EPCRA reports to the DOC Environmental Manager annually.

SECTION 6. OBJECTIVES

.01 Develop and implement a Hazardous Chemicals/Materials Management Plan and/or Chemical Hygiene Plan.

.02 Establish affirmative procurement programs to reduce and/or control hazardous chemical/material purchases when and where applicable, in accordance with laws, regulations, and EOs.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 Develop and implement a Hazardous Chemicals/Materials Management Plan and/or Chemical Hygiene Plan that identifies hazardous chemicals/materials, management requirements, assigns responsibilities for management, and establishes local operating procedures. The Hazardous Materials Chemicals/Materials Management Plan should address the following:

a. Strategy for complying with applicable laws and regulations;

b. Procedures to obtain and comply with any permits required for hazardous chemical/material storage or use;

c. Handling and storing requirements;

d. Hazardous chemical/material disposal procedures;

e. Procedures for procuring hazardous chemicals/materials;

f. Worker training requirements;

g. Spill control equipment requirements and procedures;

h. Emergency preparedness/response protocols;

i. Community notifications required by EPCRA;

j. Spill reporting required by the Clean Water Act (33 U.S. C. 1251) and EPA regulations in 40 CFR, as amended; and

k. Occupational Safety and Health Administration hazard communication requirements (29 CFR 1910.1200 and 29 CFR 1926) and Chemical Hygiene Plan (29 CFR 1910.1450).

.02 Transport hazardous chemicals/materials over public highways and onsite areas accessible to the general public in accordance with the Hazardous Materials Transportation Uniform Safety Act (49 USC 5101), and applicable state and local regulations. Transportation of hazardous chemicals/materials at on-site areas will be conducted in a manner to preclude spills or releases to the environment, and to enhance personnel safety.

.03 Design and construct hazardous chemical/material storage areas to prevent releases to the workplace and/or environment.

.04 Manage excess or unserviceable hazardous chemical/material stocks emphasizing waste minimization techniques such as reuse, recycling, energy recovery, and detoxification (reducing the volume and/or toxicity when where applicable).

.05 Manage PCBs in place unless operational, economic, or regulatory considerations justify removal. Economic analysis will include potential environmental damage.

.06 The management, use, disposal, and cleanup of PCBs, must comply with 40 CFR 761.

.07 Small PCB capacitors that preserve the integrity of the container should be disposed intact as opposed to crushing or other processes that may result in a release of PCBs.

.08 The Commerce Acquisition Manual, 1323.70, Affirmative Procurement Program, establishes an affirmative procurement programs for all EPA-designated guideline items. This program is designed to meet the requirements of Section 6002 of the Resource Conservation and Recovery Act and EO 13423.

- END -

CHAPTER 4.8 - HAZARDOUS AND SOLID WASTE MANAGEMENT

SECTION 1. PURPOSE

.01 This Chapter prescribes policies, objectives, and targets for managing hazardous and solid wastes through improved awareness, program management, and accountability.

SECTION 2. SCOPE

.01 The provisions in this Chapter apply to Departmental Offices and Operating Units that generate hazardous and solid waste.

SECTION 3. DEFINITIONS

.01 Hazardous Waste Generator - A generator is a person or site, whose act or process produces hazardous waste or whose act first subjects hazardous waste to regulation. Environmental Protection Agency and state environmental regulatory agencies consider entire sites as the generator. Therefore, in this Chapter, hazardous waste generator shall refer to the entire, contiguous site, facility, or Operating Unit.

.02 Hazardous Waste - A hazardous waste is any solid waste defined or listed as hazardous according to 40 CFR 261.3 (Identification and Listing of Hazardous Waste) or, where applicable, each State's hazardous waste management rules and regulations.

.03 Solid Waste - Solid waste is any discarded material as defined in 40 CFR 261.2 or, where applicable, each State's solid waste management rules and regulations.

SECTION 4. REQUIREMENTS

.01 Numerous Federal, state and local regulations govern the handling and disposal of solid wastes. The following are some of the Federal regulations applicable to solid wastes:

.02 Statutes.

a. Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901, et. seq.). RCRA established a national policy that encourages reduction or elimination of the generation of hazardous waste as expeditiously as possible, wherever feasible. Any waste generated should be treated, stored, and disposed of in ways that minimize future threats to human health and the environment.

b. Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 5101, et. seq.). HMTA regulates the transportation of certain hazardous materials; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies

.03 Code of Federal Regulations.

a. 29 CFR 1910, Occupational Safety and Health Standards (OSHA). OSHA outlines worker health and safety standards, the storage and handling of hazardous materials,

emergency response procedures for a hazardous materials incident, fire protection standards, and regulations governing toxic and hazardous substances.

b. 40 CFR, Protection of Environment. In addition to forming the Environmental Protection Agency, the Council of Environmental Quality, and the Chemical Safety and Hazard Board, 40 CFR is the overarching Federal regulation governing the protection of the environment.

SECTION 5. RESPONSIBILITIES

.01 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the Herbert C. Hoover Building (HCHB) asbestos program, and

b. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to the use, storage, or disposal of hazardous or solid wastes.

.02 Departmental Offices and Operating Units shall be responsible for:

a. Complying with legally applicable and appropriate state, and local laws and regulations for managing, generating, treating, storing, disposing, and transporting hazardous and solid wastes. This includes the terms of local hazardous and solid wastes permits;

b. Maintaining a list of the hazardous waste that is generated, stored, treated, disposed of on-site, or transported off-site, including by whom and where;

c. Ensuring all persons handling or managing hazardous waste will be trained to perform their responsibilities in a safe and environmentally acceptable manner;

d. Developing and implementing a Hazardous Waste Management Plan that outlines compliance with Federal, state and local laws and regulations;

e. As applicable, disposing of special medical waste in accordance with applicable provisions and implementing regulations of the Medical Waste Tracking Act of 1988, state, and local requirements;

f. Diverting solid waste away from landfill disposal and meeting the goals established in EO 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*;

g. Recycling or reusing the following commodities, at all facilities, unless significant barriers (e.g., lack of markets, cost effectiveness, etc.) exist: white paper, mixed paper/newspaper, cardboard, aluminum, plastic (#1 PET and #2 HDPE), glass, pallets, scrap metal, toner cartridges, used oil, used ethanol, and consistent with applicable hazardous waste regulations, fluorescent lamps and ballasts, unwanted cell phones, and rechargeable batteries;

h. Maximizing the use of two-sided copying and electronic messaging to reduce waste;

i. Where cost effective, refurbishing rather than replacing used furniture;

j. Where it is economically feasible, reducing the quantity, volume, or toxicity of hazardous wastes, emphasizing source reduction and material substitution methods;

k. Cooperating, to the extent practical and where cost effective, in recycling and solid waste minimization programs conducted by local communities;

l. Establishing local procedures and responsibilities for the execution of a waste management program that emphasizes pollution prevention, waste prevention, waste minimization and individual responsibilities to achieve compliance;

m. Reporting to the DOC Environmental Manager all hazardous waste enforcement action taken against a facility or Department Operating Unit; and

n. Considering the assignment of a Recycling Coordinator at appropriate facilities to oversee and coordinate recycling programs.

SECTION 6. OBJECTIVES

.01 Hazardous waste generators shall comply with Federal, state, and local laws and regulations regarding the handling and disposal of hazardous and solid wastes.

SECTION 7. HAZARDOUS WASTE MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 Waste management procedures will be designed upon the following principles:

a. Whenever and wherever feasible, seek to prevent the generation and acquisition of hazard wastes;

b. Whenever waste generation is unavoidable, work to reduce the amounts, toxicity, or risk, generated through the use of sound waste management practices; and

c. Wherever feasible, move aggressively to clean up and restore areas contaminated by pollution.

.02 The Hazardous Waste Management Plan should contain the following elements:

a. Emergency information and contacts;

b. Introductory materials such as a table of contents, record of annual review, record of changes and a list of tables and figures;

c. A description that discusses the activities that generate hazardous waste;

d. A description of responsibilities for managing hazardous waste;

e. Location maps showing the location of accumulation and storage sites;

f. The latest version of the hazardous waste inventory;

g. A description of the process to characterize waste and a copy of the latest waste analysis results cross-referenced to the hazardous waste inventory;

h. Hazardous waste management procedures;

i. Hazardous waste reporting requirements and copies of the latest report;

j. Training requirements for the workers that handle or manage hazardous waste and copies of certificates showing completed training. Hazardous waste training will cover, at a minimum, the following topics:

- Brief discussion and introduction to the RCRA, including the basic requirements for site-specific hazardous waste management;
- The proper procedures for the identification of hazardous waste;
- The proper procedures for managing a hazardous waste accumulation or storage site;
- Hazardous waste container use, marking, labeling, and segregation;
- Hazardous waste turn-in procedures;
- Manifesting and transporting hazardous waste;
- Spill prevention and emergency response;
- Hazardous waste reduction strategies; and
- Personnel and fire safety practices.

k. If applicable, copies of the Spill Control and Countermeasures Plan and/or contingency/spill plan; and

l. List of required equipment and spill response supplies to be maintained at all hazardous waste accumulation and storage sites.

.03 Locate accumulation and storage sites in areas that facilitate compliance.

.04 Assign an individual to manage each accumulation and storage site. This individual must be trained in the proper management of the accumulation or storage site.

.05 Periodically verify permits and licenses for treatment, storage and disposal facilities that receive hazardous wastes.

SECTION 8. SOLID WASTE MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 Use integrated solid waste management procedures, techniques, and practices to manage solid wastes. Refer to Chapter 6 for additional information.

.02 Department Operating Units, and facilities will cooperate, to the extent practicable, in recycling programs conducted by the local community.

- END -

CHAPTER 4.9 - AIR QUALITY

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, responsibilities, and objectives, for compliance with the Clean Air Act (CAA).

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Departmental Offices and Operating Units with devices/discharges subjected to air permit requirements, the CAA or other Federal, state, or local air quality standards.

.02 Provisions for indoor air quality are not addressed in this Chapter.

SECTION 3. DEFINITIONS

.01 Air Pollutant - Any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material and byproduct material) substances or matter which is emitted into or otherwise enters the ambient air and for which ambient air quality standards have been established. (For some examples, see Section 6.02 of this Chapter.) Such term includes any precursors to the formation of any air pollutant, to the extent the Environmental Protection Agency (EPA) has identified such precursor or precursors for the particular purpose for which the term "air pollutant" is used.

.02 Air Pollution Source - Any stationary source of air pollutant(s) that is built or modified after publication of final or proposed regulations which prescribe a standard of performance intended to apply to that type of air pollutant produced. A stationary source is described as a fixed, non-moving producer of pollution, such as power plants and other facilities using industrial combustion processes, paint spray booths, fuel storage tanks, and solvent cleaning facilities.

.03 Non-Attainment Area - A non-attainment area is any geographic area that does not meet one or more of the national ambient air quality standards for the criteria pollutants designated through the CAA.

SECTION 4. REQUIREMENTS

.01 The CAA assigns primary responsibility for the control of air pollutants to the states. Federal regulations provide a framework that each state uses to design specific regulatory strategies to deal with air pollution within its boundaries. State programs are formalized in state implementation plans. Once approved by the EPA, these state implementation plans become federally enforceable. States may impose more stringent air quality restrictions than Federal requirements. Department Operating Units and facilities shall follow the more stringent requirements.

.02 The major requirements of the CAA include the following:

a. 40 CFR 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS) are uniform national standards that apply to new, modified and existing stationary

sources. The air pollutants regulated include asbestos, beryllium, mercury, inorganic arsenic, vinyl chloride, benzene, and radionuclides.

b. 40 CFR 50, National Ambient Air Quality Standards (NAAQS) are air pollutants which may be harmful to the public health or welfare. NAAQS are regulated as either primary or secondary ambient air quality standards. Primary standards reflect the level of attainment necessary to protect the public health, allowing for a margin of safety. Secondary standards, when prescribed, are designed to protect public welfare in addition to health.

c. 40 CFR 50-69, CAA Title V is the newest amendment (circa 1990). It requires the EPA to regulate source categories of 189 toxic air pollutants and meet maximum achievable control technology standards for each source category.

d. 40 CFR 60, New Source Performance Standards (NSPS) apply to individual air pollution sources. NSPS are established by the EPA for individual industrial or source categories and include emission standards; notification and testing procedures; and monitoring and reporting requirements. These standards are designed to reflect the Best Available Control Technology (BACT) for each source category. New source performance standards are uniform national EPA standards that limit the amount of pollution allowed from new or existing air pollutant sources that have been modified.

e. 40 CFR 52.21, Prevention of Significant Deterioration Program (PSD) preserves air quality in areas where ambient standards have been met (attainment areas). The PSD program requires preconstruction review and application of BACT for all emission sources of a given size and industrial category planning to construct or reconstruct facilities.

SECTION 5. RESPONSIBILITIES

.01 DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC air quality program, and

b. Informing all Departmental and Operating Units of any pending or new legislation or EOs impacting air quality regulations.

.02 Departmental Office and Operating Units shall be responsible for:

a. Ensuring compliance with the provisions of the CAA, state, and local laws and regulations and applicable permit requirements for its facilities;

b. Establishing budgeting and funding policies for their facilities permit fees; and

c. Informing the DOC Environmental Manager of any discrepancies in permit compliance or major release of hazardous air pollutants.

SECTION 6. OBJECTIVES

.01 Comply with all applicable Federal, state, and local regulations governing air quality at DOC facilities.

.02 Comply with all air quality permit restrictions and requirements.

.03 Reduce or minimize volatile organic compound emissions and nitrogen oxides emissions in an effort to reduce ambient ozone levels.

.04 When cost effective, procure alternative clean-fuel vehicles in affected non-attainment areas.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 Air quality compliance involves prevention, control, abatement, documentation, and reporting of air pollution from air pollution sources. Maintaining compliance with air quality regulations may require reduction or elimination of emissions from existing sources, and control of new pollution sources.

.02 State regulations generally establish emission limits for various types of air pollution sources and require permits for construction, modification, and operation of these sources of air pollutants. Performance testing and periodic or continuous emission monitoring may be required to assure compliance with emissions limits. Both civil and criminal penalties may be imposed for permit violations.

.03 Permits and permit fees. The CAA Amendments of 1990 established a nationwide permit program for air pollution sources. States issue federally enforceable operating permits. These permits are designed to enhance the ability of the EPA, state, local regulatory agencies, and private citizens to monitor and enforce the CAA requirements.

a. Permits typically clarify operating, controlling, record keeping, and reporting requirements for affected air pollution sources.

b. Permit applications may require the preparation of detailed plans to include compliance plans for air pollution sources. These plans accompany each permit application. Failure to comply with the plan or permit can be grounds for enforcement action.

.04 Engineering and economic analyses should be performed for each project requiring specification or installation of equipment for the control of air pollutants. These analyses will ensure the selected control technology meets compliance requirements, does not create an unacceptable health or safety risk, and is cost effective.

.05 When planning and/or designing a new air pollution source or modifying an existing source, coordinate the design with responsible EPA, state, or local authorities at the earliest practical time.

- END -

CHAPTER 4.10 - ASBESTOS MANAGEMENT

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, responsibilities and objectives to effectively manage asbestos.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Departmental Operating Units with building owner or building operations and maintenance (O&M) responsibility (i.e. cleaning, maintenance, repair, or renovation work).

.02 Not all Occupational Safety and Health Administration (OSHA) program requirements are covered in this Chapter.

.03 States may impose asbestos standards equal to or more stringent than Federal requirements. Department Operating Units must follow the more stringent requirements.

SECTION 3. DEFINITIONS

.01 Abatement - The removal of asbestos containing material from a damaged area, a functional space, or a homogeneous area in a building.

.02 Asbestos - The asbestiform varieties of chrysotile; crocidolite; amosite; anthophyllite; tremolite; and actinolite.

.03 Asbestos-Containing Building Material (ACBM) - Any building material which contains more than 1% asbestos.

.04 Asbestos-Containing Material (ACM) - Any material or product which contains more than one percent asbestos.

.05 Asbestos Management Plan (AMP) - A permanent record of the current status and condition of all asbestos containing material in an installation's facility inventory. The AMP also contains the documentation and procedures for all asbestos management efforts to ensure compliance with applicable Federal, state, and local regulations.

.06 Friable ACM - Any material, containing more than 1% asbestos, which, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. (Examples: pipe insulations, sprayed-on fireproofing, and boiler insulation)

.07 Management in Place - Refers to principle of maintaining intact, undisturbed asbestos so that is does not become damaged or disturbed and release asbestos fibers.

.08 Non-friable - Any material, containing more than 1% asbestos, which, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

.09 Operations and Maintenance (O&M) Program - A program of work practices to maintain ACM in good condition, ensure clean up of asbestos fibers previously released, and prevent further release by minimizing and controlling ACM disturbance or damage.

.10 Permissible Exposure Limit (PEL) - The PEL for asbestos is 0.1 fibers/cubic centimeters (f/cc) and is based upon the average exposure for a complete 8-hour work shift.

.11 Repair - Returning damaged ACM to an undamaged condition or to an intact state so as to prevent fiber release.

SECTION 4. REQUIREMENTS

.01 Statutes.

a. Toxic Substance Control Act (15 U.S.C. § 2601, et seq.), was enacted by Congress to give EPA the ability to track the 75,000 industrial chemicals currently produced or imported into the United States. EPA repeatedly screens these chemicals and can require reporting or testing of those that may pose an environmental or human-health hazard. EPA can ban the manufacture and import of those chemicals that pose an unreasonable risk.

.02 Code of Federal Regulations.

a. 40 CFR Part 763, Asbestos, contains standards for the handling and disposal of asbestos.

b. 40 CFR Part 61, Subpart M, National Emissions Standards for Hazardous Air Pollutants, is concerned with specific substances that are considered to be significant, hazardous air pollutants and establishes national emission standards for mercury, vinyl chloride, benzene, asbestos and many other substances.

SECTION 5. RESPONSIBILITIES

.01 The DOC Environmental Manager shall be responsible for notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to Asbestos abatement or disposal.

.02 Departmental Offices and Operating Units shall be responsible for:

a. Complying with all Federal, state, and local laws and regulations on the management, handling, transportation, and disposal of ACM;

b. Managing all undamaged ACM in place;

c. Presuming all damaged ACM is hazardous due to its potential to release airborne asbestos fibers;

d. Abating, maintaining, isolating, repairing, or removing damaged ACM to prevent further disturbance and subsequent release of airborne fibers. ACM that cannot be abated, maintained, isolated or repaired must be removed; and

e. Developing and maintaining an AMP.

SECTION 6. OBJECTIVES

.01 Prevent the release of airborne asbestos fibers above the regulated PEL.

.02 Applicable Departmental Offices and Operating Units shall identify all ACM and implement and maintain an AMP.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 Asbestos is a problem because, as a toxic substance and a known carcinogen, it can cause several serious diseases in humans. Symptoms of these diseases typically develop over a period of years following asbestos exposure.

.02 ACM in buildings does not always pose a problem or a hazard to occupants and workers in those buildings. Intact, undisturbed ACM generally does not pose a health risk. Intact, undisturbed ACM may become hazardous and pose increased risk when damaged, deteriorated, or disturbed in some manner, that causes the release of asbestos fibers into building air.

.03 The principle of "management in-place" is designed to keep asbestos fiber levels low and to train personnel responsible for operations and maintenance (O&M) activities to recognize and manage ACM.

.04 Proper management of asbestos involves identification, assessment and management of ACM, and if necessary, abatement and removal. In order to prevent exposing individuals to concentrations of asbestos fibers above the regulated PEL, Department Offices and Operating Units shall:

a. Identify ACBM in their buildings;

b. Manage ACM in a way to minimize or contain release or exposure of airborne asbestos fibers;

c. Remove ACM likely to release airborne asbestos fibers which cannot be reliably maintained, repaired, or isolated;

d. Develop, implement, and maintain a written AMP; and

e. Prior to the demolition or renovation of a building, determine if the work will disturb ACM and take appropriate action.

.05 Appropriately trained persons should evaluate the risk to facility occupants, use of the facility, feasibility of repair, frequency of repair, and cost-effectiveness when deciding whether to remove or repair damaged friable asbestos materials.

.06 The AMP should:

a. Assign roles and responsibilities;

b. Establish inspection and repair capabilities;

c. Establish a notification and education program to inform workers, tenants, and building occupants where friable ACM is located including how and why to avoid disturbing the ACM;

d. Determine O&M equipment and supply requirements;

e. Establish procedures for interim control measures and fiber release episodes;

f. Establish procedures to assess and prioritize damaged ACMs for abatement;

g. Define requirements for asbestos abatement contractors and analytical laboratories;

h. Direct surveillance to note, assess, and document any changes in the ACM's condition;

i. Establish work control systems (operations and maintenance) to control activities which might disturb ACM; (O&M)

j. Develop work practices to avoid or minimize fiber release during activities affecting ACM;

k. Maintain records relating to asbestos identification management and abatement;

l. Develop and implement procedures to prevent the use of ACM in new construction; and

m. Establish O&M training requirements for maintenance and custodial personnel.

- END -

CHAPTER 4.11 - LEAD-BASED PAINT MANAGEMENT

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, objectives, and targets to establish and implement a program to identify, control or eliminate lead-based paint (LBP) hazards, through interim controls or abatement.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Departmental Offices and Operating Units with building Operations and Management responsibility and child-occupied or residential facilities.

.02 Not all Occupational Safety and Health Administration program requirements are covered in this Chapter.

.03 States may have imposed LBP standards more stringent than Federal requirements. Department Offices and Operating Units shall follow the more stringent requirements.

SECTION 3. DEFINITIONS

.01 Abatement - Any measure or set of measures designed to permanently eliminate LBP hazards. Abatement includes, but is not limited to:

a. The removal of LBP and lead-contaminated dust, the permanent enclosure or encapsulation of LBP, the replacement of lead painted surfaces or fixtures, and the removal or covering of lead contaminated soil.

b. Preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures. (Note: Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate LBP hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling even though these activities may incidentally result in a reduction or elimination of LBP hazards. Furthermore, abatement does not include interim controls, operations, and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce LBP hazards.)

.02 Child-Occupied Facility - A building or a portion of a building constructed prior to 1978, visited regularly by the same child, 6 years of age or under, on at least 2 different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, daycare centers, preschools, and kindergarten classrooms.

.03 Deteriorated Paint - Any paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

.04 Lead-Based Paint (LBP) - Any paint or other surface coating that contains lead equal to or in excess of 1.0 mg/cm^2 or 0.5 percent by weight unless otherwise identified by state regulations.

.05 Lead-Based Paint Hazard - Any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or LBP that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Environmental Protection Agency (EPA) or authorized regulatory agency pursuant to the Toxic Substances Control Act (TSCA).

.06 Lead Contaminated Dust - Surface dust in residential dwellings, or child-occupied facilities that contains an area or mass concentration of lead at or in excess of levels identified by the EPA or authorized regulatory agency pursuant to TSCA.

.07 Lead Contaminated Soil - Bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of levels identified by the EPA or authorized regulatory agency pursuant to TSCA.

.08 Paint in Poor Condition - More than 10 square ft of deteriorated paint or exterior components with large surface areas; or more than 2 square ft of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or when more than 10 percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

.09 Renovation - The modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 CFR 745.223. The term renovation includes (but is not limited to): the removal or modification of painted surfaces or painted components (e.g., modification of painted doors, surface preparation activity, such as sanding, scraping, or other such activities that may generate paint dust; the removal of large structures (e.g., walls, ceiling, large surface re-plastering, major plumbing), and window replacement.

.10 Target Housing - Any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is < 6 years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling (40 CFR 745.103 and 745.223).

SECTION 4. REQUIREMENTS

.01 Code of Federal Regulations.

a. 40 CFR Part 745.100, Lead-Based Paint Poisoning Prevention in Certain Residential Structures, establishes standards for lead-based paint hazards in most pre-1978 housing and child-occupied facilities. This regulation supports the implementation of regulations already promulgated, and others under development, which deal with worker training and certification, and lead hazard disclosure in real estate transactions. See also 24 CFR Part 35.

b. 29 CFR Part 1926.62, Safety and Health Regulations for Lead, sets standards for workers with exposure to lead.

SECTION 5. RESPONSIBILITIES

.01 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC lead paint program.

b. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to lead paint abatement or disposal.

.02 Departmental Offices and Operating Units subject to the scope of this Chapter shall be responsible for:

a. Complying with all Federal, state and local laws and regulations regarding the handling, use, disposal, abatement, and control of LBP;

b. Developing and implementing a written LBP hazard management program to identify, evaluate, and reduce LBP hazards in child-occupied facilities;

c. Managing LBP hazards through interim controls or abatement;

d. Ensuring occupant and worker protection measures are taken during all repair, maintenance, and renovation activities that disturb areas known or assumed to have LBP; and

e. Disclosing to occupants/users of child-occupied facilities the presence of any known LBP or LBP hazards, along with steps taken to reduce or eliminate the hazards and information on LBP hazard reduction plans occupants or users may employ.

SECTION 6. OBJECTIVES

.01 Identify LBP hazard surfaces in child-occupied facilities.

.02 Implement an up-to-date LBP management plan in applicable Department Offices and Operating Units focusing on LBP hazards in child-occupied facilities.

.03 Notify occupants/users of LBP hazards and provide information on LBP hazard reduction measures they can use.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 States may have imposed LBP standards more stringent than Federal requirements. Department Offices and Operating Units shall follow the more stringent requirements.

.02 While exposure to lead is a concern for all, childhood lead poisoning is one of the most common and preventable pediatric health problems in the United States today. Experts agree there are three major sources of lead exposure to children: (1) LBP, (2) lead-contaminated soil and dust, and (3) lead-contaminated drinking water. These sources are considered major because of the number of children potentially exposed.

.03 Children can be exposed to lead through ingestion of lead containing paint chips and dust via hand to mouth activities. Lead was a common ingredient in residential interior and exterior oil-based paints

produced prior to 1950. As the LBP deteriorates from age or mechanical forces, lead is released into the environment. The most common household occurrence of lead is in house dust on window sills where the window trim has been coated with LBP. This is because the LBP is abraded during window opening/closing over a long period of time.

.04 The major source of lead exposure for adults is from operations involving maintenance, renovation, abatement work, and corrosion control of items previously painted with LBP. Workers who may be exposed to lead include abrasive blasters, inspectors, painters, and cleaning personnel working in areas where lead-containing dust may be present. In addition to these potential occupational exposures, lead may be brought into a home on the clothing of personnel who work in lead-related areas. This occurs when personnel do not employ proper work practices or use proper personal protective equipment when performing lead-related work.

.05 When leasing or selling target housing, the DOC is required to disclose any knowledge it has of the presence of known LBP and/or LBP hazards (40 CFR 745.100). In addition, a pamphlet with lead hazard information must be provided.

.06 All LBP activities are required to be performed by certified individuals and firms. Certification is available for inspectors, risk assessors, supervisors, project designers, and abatement workers.

- END -

CHAPTER 4.12 - UNDERGROUND AND ABOVEGROUND STORAGE TANKS

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, responsibilities and objectives for complying with environmental standards applicable to underground and aboveground storage tanks.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Departmental Offices and Operating Units with underground and aboveground tanks subject to Federal, state, or local requirements. See 40 CFR 280.12 for definitions of tanks that are not underground storage tanks and therefore not subject to Federal regulations. 40 CFR 280.10 excludes and defers certain underground storage tanks from Federal requirements. The following kinds of tanks are not covered by this policy:

a. Farm and residential tanks of 1,100 gallons or less capacity holding motor fuel used for noncommercial purposes;

b. Tanks storing heating oil used on the premises where it is stored;

c. Septic tanks and systems for collecting storm water and/or wastewater;

d. Flow-through process tanks; and

e. Emergency spill and overfill tanks.

SECTION 3. DEFINITIONS

.01 Cathodic Protection - A technique for preventing corrosion of a metal surface by making the surface the cathode of an electrochemical cell. A tank system maybe cathodically protected by applying either galvanic anodes or impressed current.

.02 Free Product - A regulated substance that exists as a liquid that does not dissolve in water.

.03 Petroleum Underground Storage Tank - A tank system containing petroleum or a petroleum mixture, including: motor fuels, fuel oils, lubricants, petroleum solvents, and used oils.

.04 Release - The spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a substance from an underground storage tank into groundwater, surface water, or soil.

.05 Underground Storage Tank (UST) - Any tank or combination of tanks (including underground pipes connected to the tank) that contains an accumulation of regulated substances, where 10 percent or more of the volume (including underground pipes connected to the tank) lies beneath the ground surface.

SECTION 4. REQUIREMENTS

.01 Statutes.

a. Energy Policy Act of 2005, Subtitle B of Title XV of the established the Underground Storage Compliance Act of 2005 (USTCA) which substantially changes the existing UST program for the Environmental Protection Agency (EPA) and the States.

.02 Code of Federal Regulations.

a. 40 CFR 280, Technical Standards and Correctives Action Requirements for Owners and Operators of Underground Storage Tanks, protects groundwater by establishing standards that prevent releases and enable UST owners and operators to quickly respond to releases that do occur.

SECTION 5. RESPONSIBILITIES

.01 DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's storage tank program;

b. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to storage tanks; and

c. Maintaining a record of reportable quantity spills, discharges, or releases.

.02 Departmental Offices and Operating Units shall be responsible for:

a. Developing and maintaining a comprehensive list of USTs and piping locations in order to accurately track and report compliance status;

b. Coordinating with regulators to ensure tanks are inspected at least once every three years;

c. Notifying the applicable regulatory agency and the DOC Environmental Manager within 24 hours when:

- a release equals or exceeds a reportable quantity or poses a significant harm to the environment;
- Unusual conditions occur, such as apparent erratic behavior of equipment, loss of product, or unexplained water in tanks; or
- A spill or overfill of more than 25 gallons occurs, causes a sheen on nearby surface water, or otherwise equals or exceeds the reportable quantity for the spilled substance.

d. Unless the regulatory agency directs otherwise, submitting a report of initial abatement actions within 20 calendar days after confirming a release. Send a copy of the report to the DOC Environmental Manager;

e. Submitting a detailed follow-up report to the appropriate regulatory agency within 45 calendar days after confirming the release. Submit a copy to the DOC Environmental Manager. The report shall include:

- The name of the Operating Unit or facility point of contact;
- The nature and estimated quantity of release;
- Information on surrounding population, water quality, use and locations of potentially affected wells, subsurface soil conditions, locations of sewers, climatologically conditions, and land use;
- Results of the initial site check;
- The cause of the release; and

- Results of the free-product investigation, including:
  - Estimated quantity, type, and depth of any free product.
  - Type of recovery system.
  - Location of on-site or off-site discharges.
  - Type of treatment and effluent quality.
  - Steps taken to obtain necessary permits.
  - The disposal procedure or plan for disposal of any recovered free product, contaminated soil, or groundwater.

f. Complying with the requirements of the Oil Pollution Prevention (40 CFR 112) and all state and local requirements as appropriate;

g. Maintaining a list of all AST locations and their characteristics;

h. Obtaining all required environmental permits, including permits for constructing and operating ASTs to include storm water discharges from diked areas and oil/water separators;

i. Installing drainage or diking at ASTs to prevent any accidental discharges from endangering adjoining property or reaching waterways; and

j. Reporting AST spills to Federal, state, and local regulators, if applicable. Report all AST spills/releases of over 100 gallons to the DOC Environmental Manager within 24 hours of spill.

SECTION 6. OBJECTIVES

.01 Maintain all tanks in accordance with prescribed requirements.

.02 Maintain an up-to-date list of ASTs and USTs.

.03 Upgrade or replace existing non-compliant USTs.

.04 Meet all reporting requirements.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 Eliminate USTs, where economically beneficial, to reduce long-term operating costs and future liabilities resulting from leaks. Eliminate USTs by locating tanks in vaults, constructing aboveground tanks, or revising operating practices.

.02 Ensure new and existing USTs and associated piping are designed and constructed to provide corrosion protection, release detection, spill and overfill prevention, double walls or secondary containment. Follow 40 CFR 265 for UST systems containing hazardous waste.

.03 Consider replacing rather than upgrading existing tanks holding less than 1,000 gallons.

.04 Periodically check UST systems for leaks.

.05 Ensure underground storage tank operators are trained in accordance with EPA guidelines.

.06 USTs installed after December 22, 1988, must meet the requirements for new UST including construction standards, leak detection, spill, overfill, and corrosion protection requirements.

.07 USTs installed before December 22, 1988, must have had leak detection installed by December 1993 and spill, overfill, and corrosion protection installed by December 1998.

.08 UST systems for hazardous substances must have secondary containment. Secondary containment requirements may be met by using double-walled tanks and piping, liners, or vaults. Hazardous substance UST liners must meet code requirements and be compatible with the stored substance.

.09 Prevent corrosion by installing tanks make of fiberglass-reinforced plastic, cathodically protected steel, or steel-fiberglass-reinforced plastic composite.

.10 Prevent spills by ensuring available tank capacity exceeds the volume of the product and monitoring transfer operations constantly.

.11 Use qualified technicians to repair and certify USTs according to national codes and standards.

.12 Provide records to regulatory authorities during on-site visits that prove compliance with certain requirements. Maintain and keep records long enough to show recent compliance status in the following major areas:

a. Leak detection system performance and maintenance records to include:
   - The last year's monitoring results and the most recent tightness test.
   - Copies of performance claims provided by leak detection manufacturers.
   - Records of recent maintenance, repair, and calibration of on-site leak detection equipment.

b. Required inspections and tests of the corrosion protection system;

c. Repair or upgrade records that indicate the work was properly performed.

d. Site assessment records resulting from permanent closure of an UST. Keep this record for at least 10 years after closing the UST.

- END -

CHAPTER 4.13 - WASTEWATER MANAGEMENT

SECTION 1. PURPOSE

.01 This Chapter describes the policies, responsibilities, and objectives to ensure the availability, conservation, and protection of water resources. It encompasses wastewater treatment and pollution abatement.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Departmental Offices and Operating Units subjected to Federal, state, and local laws for water resource protection or those Operating Units that treat wastewater.

.02 The control of oil and hazardous substance spills is addressed in Chapter 4.17 of this Manual.

SECTION 3. DEFINITIONS

.01 Best Management Practices - Measures or practices to reduce amounts of pollutants entering surface water, air, land, or groundwater. Best management practices can be a process, activity, or physical structure.

.02 Discharge Permit - Authorizes discharging wastewater or storm water to the waters of the United States or to a publicly-owned treatment works (POTW).

.03 Domestic Wastewater - Wastewater that contains human wastes and wastewater from food preparation, laundry, bathing, and similar activities. Domestic wastewater typically includes wastewater from housing units and wastewater from commercial or industrial facilities that is similar to that from housing units. Domestic wastewater does not include industrial process wastewater.

.04 Industrial Wastewater - Wastewater from industrial activities such as electroplating, metal finishing, corrosion control, vehicle maintenance, and other industrial processes.

.05 Lift Station - A wastewater collection device or system that pumps wastewater from a gravity sewer to a sewer or treatment plant at a higher elevation.

.06 National Pollutant Discharge Elimination System (NPDES) - The Environmental Protection Agency (EPA) program under the Clean Water Act (CWA) that regulates the discharge of pollutants from point sources into the waters of the United States and imposes effluent standards and enforces pretreatment requirements under CWA sections 307, 318, 402, and 405.

.07 Pretreatment - Treatment of industrial wastewater before it is discharged to a federally-owned treatment works or a POTW.

SECTION 4. REQUIREMENTS

.01 Statutes.

a. The Clean Water Act Section 311, has requirements for spill prevention, control and counter measures (SPCC). A SPCC must be developed for any facility that meets each of the following criteria:

- The facility has oil or oil product storage in excess of 1,320 gallons in aboveground storage tanks;
- Any one aboveground storage tank container greater than 660 gallons of oil or an oil product; or
- The facility has greater than 42,000 gallons of oil or oil product stored in underground storage tanks and there is the potential, either directly or indirectly, for spilling the oil or oil product into either navigable or unnavigable waters which can actually or potentially contaminate the land/water table.

.02 Code of Federal Regulations.

a. 40 CFR 121-125. Establishes effluent guidelines are applied to individual facilities or wastewater treatment plants through the NPDES permit program. The NPDES permit provides discharge limitations of pollutants from point sources and storm water discharges into United States waters. Permits are issued from the EPA or the state

SECTION 5. RESPONSIBILITIES

.01 DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's wastewater management program;

b. Notifying Departmental Offices and Operating Units of any pending or new regulations regarding wastewater management.

.02 DOC Energy Manager shall be responsible for reporting annual water intensity for the Department in the OMB Energy Scorecard.

.03 Departmental Offices and Operating Units shall be responsible for defining and identifying those facilities responsible for compliance with this policy and providing that information to the DOC Environmental Manager.

.04 Operating Units with responsibility for compliance with this policy shall be responsible for:

a. Establishing a water quality compliance program to assess, attain, and maintain compliance with applicable Federal, state, and local water quality regulations;

b. Obtaining permits for wastewater discharges and designated storm water runoffs;

c. Complying with all NPDES permit conditions;

d. Tracking permit renewal dates to prevent permit expiration;

e. Resolving all NPDES permit violations within the regulatory agency's time frame. Maintain records of written correspondence and oral communication with the regulators. Report enforcement actions to the DOC Environmental Manager;

f. Forwarding copies of enforcement action(s) and/or notice(s) of violation resulting from inspections to the DOC Environmental Manager within 4 workdays;

g. Where economically beneficial, using regional or municipal water supplies; and wastewater collection and treatment systems; and

h. Reporting annual water consumption to the Department Energy Manager for inclusion in the OMB Energy Scorecard.

SECTION 6. OBJECTIVES

.01 Identify all water resources with permits or needing permits. Obtain necessary permits where appropriate.

.02 Comply fully with Federal, state, and local permit requirements.

.03 Perform proper notifications of out-of-compliance conditions.

.04 Protect and conserve water resources.

.05 Reuse wastewater whenever economically beneficial.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 Facilities that discharge wastewater to a POTW are referred to as indirect dischargers. Indirect dischargers do not require NPDES permits under the CWA but may be regulated by the local POTW.

.02 Designated storm water runoffs requiring permits include, but are not limited to:

a. Transportation facilities with vehicle maintenance and equipment cleaning operations;

b. Hazardous waste treatment, storage or disposal facilities;

c. Landfills, land application sites, and open dumps that receive or have received any industrial wastes;

d. Steam electric power generating facilities, including coal-handling sites;

e. Facilities used in storing, treating, recycling, and reclaiming domestic sewage, including land dedicated to the disposal of sewage sludge within the confines of the facility (for facilities with a design flow of more than 1.0 million gallons per day) are required to have an approved pretreatment program under 40 CFR 403; or

f. Construction activity, including clearing, grading and excavating. (Exceptions: Operations that disturb less than 5 acres of total land area and are not part of a larger common development or sale plan.)

.03 Protect and conserve water resources by:

a. Controlling or eliminating sources of pollutants and contaminants;

b. Incorporating non-point source (e.g., storm-water runoff, soil erosion) abatement measures in construction, facility operations, and land management activities;

c. Reusing wastewater and sludge; and

d. Participating with regional water authorities to develop and implement water conservation measures.

.04 Control the discharge of industrial wastewater by:

a. Minimizing industrial wastewater discharge;

b. Keeping prohibited waste from entering domestic wastewater and other non-industrial sewer systems; and

c. Pre-treating regulated industrial wastewater to acceptable levels before discharge to a domestic wastewater or other nonindustrial sewer systems.

.05 Collect and manage industrial wastewater as a hazardous waste if regulations forbid discharging such wastewater into domestic wastewater or other nonindustrial sewer systems or pretreatment is impossible.

.06 Oil/Water Separators:

a. Perform regular inspections and maintenance of all oil/water separators to maintain water quality compliance;

b. Use adequately sized oil/water separators to remove incidental releases of residual fuel, oil, grease, and other oily wastes only when you cannot use dry cleanup or other cleanup methods;

c. Obtain a wastewater discharge permit for an oil/water separator when discharge to a wastewater treatment plant is not possible; and

d. Do not discharge collected fuel, oil, grease, oily waste, solvents, cleaning compounds, or corrosion-control facility waste or other contaminants into oil/water separators.

.07 Storm Water:

a. Storm Water Pollution Prevention Plans must identify potential sources of pollutants in runoff from industrial activities that could affect the quality of storm water discharges;

b. Develop and implement best management practices to eliminate/reduce pollutants; and

c. For Storm Water Pollution Prevention Plan preparation guidance, see EPA 832-R-92-006, Storm Water Management For Industrial Activities--Developing Pollution Prevention Plans and Best Management Practices, and EPA 832-R-92-005, Storm Water Management

for Construction Activities—Developing Pollution Prevention Plans and Best Management Practices.

.08 Obtain proper permits and comply with 40 CFR 503, EPA standards for the use or disposal of sewage sludge, for land application, surface disposal or incineration of sewage sludge.

.09 Wastewater lift stations must continue to operate during power failures and have redundant pumps to provide adequate pumping capacity for handling the maximum wastewater flow when one pump is out of service. Major lift stations should be provided with stand-by power generators, portable power generators or two independent power sources. Provide a connection for a portable generator at small lift stations.

- END -

CHAPTER 4.14 - DRINKING WATER

SECTION 1. PURPOSE

.01 This Chapter describes the policies, objectives, and responsibilities for the protection and enhancement of the quality of drinking water.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to public water systems owned or operated by Departmental Offices and Operating Units.

.02 States may impose drinking water requirements equal to or more stringent than Federal requirements. Departmental Offices and Operating Units shall follow the more stringent requirements.

SECTION 3. DEFINITIONS

.01 Public water system - A public water system is any collection, treatment, storage, or distribution facility for the provision of piped water for human consumption, provided that the system for which it exists meets these minimum criteria: 15 service connections or regular daily service for a total of 60 days per year to 25 individuals.

.02 Underground injection - Underground injection is the subsurface emplacement through a bored, drilled, driven, or dug well where the depth is greater than the largest surface dimension, whenever a principal function of the well is the emplacement of any fluid.

SECTION 4. REQUIREMENTS

.01 Statutes.

a. The Safe Drinking Water Act (SDWA) of 1974 was created to provide safe drinking water for the public. Both primary and secondary drinking water standards have been set by the EPA regulations which apply to water after treatment by public drinking water systems. National Interim Primary Drinking Water Regulations were adopted in 1975 to protect health. Regulations covering radionuclides were added in 1976. Regulations for trihalomethanes were promulgated in 1979. Secondary regulations were established in 1979 as guidelines to states to protect the non-health-related quantities of drinking water. The 1986 amendments to the SDWA:

- Establish a mandatory schedule requiring the promulgation of primary drinking water regulations for 83 contaminants;
- Prohibit the use of lead in public water systems;
- Provide civil and criminal penalties for persons who tamper with public water systems; and
- Require closer scrutiny of state programs, including the direct enforcement of drinking water standards, as appropriate.

.02 Code of Federal Regulations.

a. 40 CFR 141, National Primary Drinking Water Standards, establishes primary drinking water regulations pursuant to section 1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act; and related regulations applicable to public water systems.

b. 40 CFR 143, National Secondary Drinking Water Regulations, control contaminants in drinking water that primarily affect the aesthetic qualities relating to the public acceptance of drinking water. At considerably higher concentrations of these contaminants, health implications may also exist as well as aesthetic degradation. The regulations are not Federally enforceable but are intended as guidelines for the States.

c. 40 CFR 146, Underground Injection Control Program Criteria and Standards, are designed to establish minimum requirements for controlling all injection activities and provide mechanisms for implementation and authorization of enforcement authority and also provide protection for underground sources of drinking water

SECTION 5. RESPONSIBILITIES

.01 DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC drinking water program, and

b. Notifying Departmental Offices and Operating Units of new or pending regulations or legislation impacting drinking water.

.02 Departmental Offices and Operating Units shall be responsible for:

a. Complying with substantive and procedural drinking water regulations established by the Environmental Protection Agency (EPA) or the regulations and procedures of those states with primary enforcement responsibility for Federal facilities, as granted by EPA;

b. Complying with underground injection control programs as established under the provisions of 40 CFR 146 and approved by EPA; and

c. Monitoring and evaluating their public water systems and taking corrective measures necessary to ensure compliance with National Primary Drinking Water Regulations (40 CFR 141), state regulations and procedures having primary enforcement responsibility, and with National Secondary Drinking Water Regulations (40 CFR 143).

SECTION 6. OBJECTIVES

.01 Protect underground water sources by identifying and regulating underground injection control activities to those permitted in accordance with applicable programs approved by EPA under the provisions of 40 CFR 146.

.02 Maintain records and submit reports concerning public water systems in accordance with requirements established by regulatory agencies having enforcement responsibility.

.03 Provide timely notice to water consumers of noncompliance with the drinking standards of 40 CFR 141. Provide copies of the notices to the DOC Environmental Manager.

- END -

CHAPTER 4.15 - IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

This section is currently under revision. Please contact the DOC Environmental Manager with any questions you may have while implementing NEPA.

- END -

CHAPTER 4.16 - ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

SECTION 1. PURPOSE

.01 This Chapter prescribes policy, procedures, and responsibilities for implementing EO 12114, *Environmental Effects Abroad of Major Federal Actions*, dated January 4, 1979, which sets forth requirements for the preparation of environmental documents for use by Federal agencies in reaching decisions on major Federal actions having significant effects on the environment abroad.

SECTION 2. SCOPE

.01 The provisions in this Chapter apply to major Federal actions having significant effects on the environment outside the geographic borders of the United States, its territories and possessions, as defined in Section 3 of this Chapter.

.02 This Chapter does not apply to major Federal actions subject to the provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321, et seq.) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508), except to the extent indicated in Section 6 of this Chapter and section 3-5 of the EO with respect to multiple impacts.

SECTION 3. DEFINITIONS

.01 Environment - The terms "environment" and "environmental" refer to the natural and physical environment and exclude social, economic, and other environments.

.02 Major Action - The term "major action" means those actions that significantly affect the environment of a foreign nation or the global commons outside the jurisdiction of any nation. Major actions include actions affecting the environment of a foreign nation which provide that nation with:

a. Products or physical projects producing a principal product or an emission or effluent which is prohibited or strictly regulated by Federal Law in the United States because its toxic effects on the environment create a serious public health risk.

b. A physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

.03 Significantly Affects - An action which would significantly harm the environment even though on balance a Departmental unit believes the action to be beneficial to the environment.

SECTION 4. REQUIREMENTS

.01 Executive Orders.

a. EO 12114, *Environmental Effects Abroad of Major Federal Actions*, dated January 4, 1979, establishes internal procedures for Federal agencies to consider the significant effects of their actions on the environment outside the United States, its territories and possessions.

SECTION 5. RESPONSIBILITIES

.01 The Administrator, NOAA, or a designated individual, shall be responsible for:

a. Determining whether a proposed major Federal action by the DOC is subject to the EO and this Chapter and whether preparation of an environmental document is indicated, and, if so, specify the appropriate type of document;

b. Providing guidance for the preparation of the environmental document specified pursuant to subparagraph .01a. and circulate the environmental document in draft form for review within the DOC ;

c. Upon receipt of a letter and environmental document from an Operating Unit, circulating the environmental document to other Federal agencies with relevant environmental jurisdiction and expertise;

d. After consultation with the head of the Operating Unit which prepared the environmental document, determining when an affected nation shall be informed, through the Department of State, of the availability of an environmental document;

e. Determining the necessity to modify an environmental document, as provided in EO section 2-5(b) and paragraph 6.06 of this Chapter, and, after consulting with the head of the Operating Unit preparing the environmental document, specify the modification in content, timing, or availability of the document;

f. Coordinating Department activities in collaborating with the Department of State and the Council on Environmental Quality in the exchange of environmental information, pursuant to section 2-2 of the EO;

g. Consulting with the Department of State and the CEQ when a categorical exclusion is utilized pursuant to Section 7 of this Chapter;

h. Coordinating Departmental review of environmental documents prepared pursuant to the EO by other Federal agencies and referred to the DOC by the preparing agency, and, after necessary consultation with interested Department organization units, exercise primary responsibility for preparation and submission of comments to the preparing agency; and

i. In instances where an Operating Unit voluntarily reviews and prepares proposed comments on an environmental document prepared by another agency pursuant to the EO, but not formally submitted by the preparing comments for conformity with Departmental policy, and, after consultation with interested organization units, exercising primary responsibility for submission of comments to the agency that prepared the environmental document.

.02 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's environmental effects abroad of major Federal actions program, and

b. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to environmental effects abroad of major Federal actions.

.03 Heads of Departmental Offices and Operating Units shall be responsible for:

a. Notifying the Administrator or designated representative when a categorical exclusion is proposed to be used pursuant to section of this Chapter;

b. Identifying for the Administrator or designated representative, potential major actions that may be subject to the provisions of the EO and this Chapter;

c. Determining whether a draft environmental document, specified pursuant to subparagraph .01a. above, will be prepared, and, if so, submit the document to the Administrator or designated representative, for circulation within the DOC;

d. Considering the comments generated by the process of intra-departmental review of a draft environmental document in preparing any revised environmental document; preparing a letter to be signed by the Administrator or designated representative, for transmitting for review an environmental document to Federal agencies with relevant environmental jurisdiction and expertise and submit the letter and environmental document to both the NOAA Chief Financial Officer and NOAA Assistant Secretary for Administration (CFO).

e. Considering comments timely received from other Federal agencies on an environmental document in taking any action addressed by the environmental document;

f. Ensuring that applicable environmental documents are available for use by appropriate agency decision-makers;

g. At the request of the Administrator or designated representative, review an environmental document prepared pursuant to the EO by another Federal agency and referred to the DOC, and submitting comments on the environmental document to the Administrator or designated representative, for consideration in preparing Departmental comments on the environmental document; and

h. When an environmental document prepared pursuant to the EO by another Federal agency is not formally submitted by the preparing agency for Departmental review, but the organization unit voluntarily reviews such documents, submitting any proposed comments on the document to the Administrator or designated representative, for disposition in accordance with subparagraph .01i. above. This provision shall not preclude an Operating Unit field office from providing a preliminary response to an environmental document received locally, if it is made clear the official Department position will be provided at a later date by the Administrator or designated representative.

SECTION 6. ENVIRONMENTAL DOCUMENTS

.01 Multiple impact. If a major Federal action having effects on the environment of the United States or the global commons results in preparation of an environmental impact statement, and if the action also

has effects on the environment of a foreign nation, an environmental impact statement need not be prepared with respect to the effects on the environment of the foreign nation.

.02 Existing document. If an environmental document, as described in paragraphs .03 through .05 below, exists and adequately addresses the significant environmental effects of a proposed major Federal action to which the EO and this Chapter apply, an additional document need not be prepared.

.03 Environmental Impact Statement. A detailed Environmental Impact Statement (EIS) shall be prepared for actions described in section 2-3(a) of the EO ("global commons") and (b) may be prepared for actions described in section 2-3(d) of the EO ("Presidential designation" or "binding treaty"). An EIS should be comprehensive in its treatment of anticipated significant environmental effects, based on information that is reasonably available, and taking into account time constraints for agency action.

.04 Environmental Study. The responsible head of an Operating Unit may take the measures available to have prepared the document described in section 2-4(a)(ii) of the EO for actions described in Executive order sections 2-3(b) ("third party"), 2-3(c) ("recipient"), or 2-3(d) ("Presidential designation" or "binding treaty").An Environmental Study should address anticipated significant environmental effects and provide quantified information, to the extent available, on the most significant aspects of the proposed actions, examine reasonable alternatives to the proposal, and identify feasible mitigation measures that can be used to minimize environmental harm. In determining the type of environmental document to be prepared, pursuant to subparagraph 5.01a of this Chapter, the Administrator or designated representative, shall be cognizant of practical impediments to the preparation of an adequate and timely Environmental Study in which a participant, or the study would be prepared by an international body or organization and the United States would have little or no influence or control in the preparation of the study

.05 Environmental Review, Assessment or Analysis. As indicated by the Administrator or designated representative, an Environmental Review, Assessment, or Analysis may be prepared for actions describe in EO sections 2-3(b) ("third party"), 2-3(c) ("recipient"), or 2-3(d) ("Presidential designation" or "binding treaty"). An Environmental Review, Assessment, or Analysis should address significant environmental effects in a careful manner; present quantified information on the most significant aspects of the proposed action, to the extent such information is not reasonably available, describe environmental impacts as precisely as practicable. Further, such a document should examine reasonable alternatives to the proposal and identify feasible mitigation measures that can be used to minimize environmental harm.

.06 Modified Document. In accordance with EO section 2-5(b), an environmental document may be modified.

SECTION 7. CATEGORICAL EXCLUSION

.01 The following items are exempted from application of the EO and this Chapter:

a. Export licenses or permits or export approvals, and actions relating to nuclear activities except actions providing to a foreign nation a nuclear production or utilization facility as defined in the Atomic Energy Act of 1954, as amended, or a nuclear waste management facility, and

b. Disaster and emergency relief action.

SECTION 8. ADVICE OF THE GENERAL COUNSEL

.01 Responsible officials, in consultation with the Administrator or designated representative, will seek advice of the General Counsel on legal questions arising in connection with this Chapter.

SECTION 9. EFFECT ON OTHER ORDERS

.01 This Chapter supersedes Department Administrative Order 216-12, dated March 10, 1983.

.02 This Chapter is to be applied independently of Chapter 15, Implementing the National Environmental Policy Act, which supplements the Council on Environmental Quality regulations to implement the National Environmental Policy Act (40 CFR Parts 1500-1508).

- END -

CHAPTER 4.17 - OIL AND HAZARDOUS SUBSTANCES POLLUTION PREVENTION AND CONTINGENCY PROGRAM

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, responsibilities and objectives to implement the provisions of the National Oil and Hazardous Substances Pollution Contingency Plan (referred to as the "National Contingency Plan") and the Environmental Protection Agency (EPA) Regulations on Oil Pollution Prevention.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Department Operating Units that have discharged or could reasonably be expected to discharge oil or hazardous substances in harmful quantities into or upon the waters of the United States or adjoining shorelines.

SECTION 3. DEFINITIONS

.01 Discharge - A discharge is any spilling, leaking, pumping, pouring, emitting, emptying, or dumping. Discharges, as used in this Chapter, do not include those within the limits and criteria of appropriate Federal or state permits.

.02 Oil - Oil is any kind or form of oil, including but not limited to petroleum, fuel oil, sludge, oil refuse, vegetable oil, animal fat, and oil mixed with wastes other than dredged materials.

.03 Waters of the United States - The waters of the United States are the navigable waters of the United States; tributaries of navigable waters of the United States; interstate and intrastate lakes, rivers, and streams.

.04 Contiguous Zone - The contiguous zone is the entire zone, contiguous to the territorial sea, established by the United States under Article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

.05 Harmful Quantities - Harmful quantities are that quantity of oil which is harmful to public health or welfare; or violates applicable water quality standards; or causes a film, sheen, or discoloration of the water surface or adjacent shorelines; or causes a sludge or emulsion to be deposited beneath the water surface or upon adjacent shorelines. A direct discharge of oil from a properly functioning vessel engine is not deemed to be harmful; but such oil accumulated in a vessel's bilge and subsequently discharged shall not be so exempt.

.06 Hazardous Substance - A hazardous substance, as defined for this Chapter and in the Federal Water Pollution Control Act, means (A) any substance designated pursuant to section 1321(b)(2)(A) of this title, (B) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of Title 42, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. § 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C. § 6901, et seq.] has been suspended by Act of Congress), (D) any toxic pollutant listed under section 1317(a) of this title, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of Title 15.

.07 Spill Prevention, Control, and Countermeasure (SPCC) Plan - The SPCC plan is a plan prepared in accordance with good engineering practice, which establishes, for a specific facility, procedures to prevent oil discharges or to minimize the potential for oil discharges, and which has the full approval of management at the level authorized to commit the necessary resources to support the plan.

SECTION 4. REQUIREMENTS

.01 Code of Regulations.

a. 40 CFR, Part 300- National Oil and Hazardous Substances Pollution Contingency Plan, provides the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants.

SECTION 5. RESPONSIBILITIES

.01 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's oil and hazardous substances program, and

b. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to the Oil and Hazardous Substances Pollution Prevention Contingency Plan.

.02 Department Operating Units or facilities that have discharged or could reasonably be expected to discharge oil or hazardous substances in harmful quantities into or upon the waters of the United States or adjoining shorelines shall be responsible for:

a. Not intentionally discharging oil or hazardous substances into or upon the waters of the United States, adjoining shorelines, or waters of the contiguous zone. An exception is made for discharges done pursuant to and consistent with a permit;

b. Identifying facilities that have discharged or could reasonably be expected to discharge oil or hazardous substances in harmful quantities into or upon the waters of the United States or adjoining shorelines. Providing a list of the facilities subjected to the requirements of this Chapter to the DOC Environmental Manager;

c. Developing an SPCC plan. This plan should consider and be compatible with EPA or U.S. Coast Guard regional contingency plans where appropriate;

d. Controlling oil and hazardous substance discharges to the maximum extent feasible;

e. Not using dispersants, including water, or chemicals to emulsify, disperse, solubilize, or precipitate oil except where necessary to reduce fire or safety hazards, or to protect waterfowl from floating oil. Such activity should be under the supervision of EPA or U.S. Coast Guard representatives; and

f. Reporting oil and hazardous substance discharges to the National Response Center (800) 424-8802, or to the nearest U.S. Coast Guard district or EPA regional office. (Visit www.nrc.uscg.mil for report forms and contact information.) Telephone reports should be

followed by a written report as soon as practical. Notifications and reports must include the location, amount, time, circumstances, type, estimated damages if any, name of discharger (if known), and response action. In addition, notify the DOC Environmental Manager at (202) 482-3580 after initial notification to U.S. Coast Guard or EPA regional office. Provide the DOC Environmental Manager a copy of the discharge report.

SECTION 6. OBJECTIVES

.01 Reduce the likelihood of oil discharges from non transportation-related onshore and offshore facilities into or upon the waters of the United States or adjoining shorelines.

.02 Respond rapidly to control and minimize the damage caused by discharges of oil or hazardous substances from Department activities.

.03 Identify Operating Units and facilities that have discharged or could reasonably be expected to discharge oil or hazardous substances in harmful quantities into or upon the waters of the United States or adjoining shorelines.

.04 Develop and implement SPCC plans as required.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 The following lists SPCC minimum requirements:

a. A registered professional engineer must prepare, review, and sign SPCC plan;

b. The Head of the Operating Unit or the designated representative must approve, in writing, the signed SPCC;

c. Necessary resources must be committed to support the plans;

d. Applicable Department Operating Units must maintain a complete copy of the approved plan for on-site review by EPA representatives and other regulatory authorities; and

e. Plans must be reviewed and updated at least every 3 years.

.02 Report oil or hazardous substance discharges to the DOC Environmental Manager. Include the location, amount, time, circumstances, type, estimated damages, if any, name of discharger, if known, and response action.

.03 Actions taken to contain and remove discharged oil and hazardous substances are usually emergency actions and need not be assessed to determine the necessity for preparing an environmental impact statement.

.04 Final disposition of the collected material is usually not an emergency action. Dispose of these materials consistent with applicable laws and regulations. The materials may be hazardous wastes.

- END -

CHAPTER 4.18 - FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

SECTION 1. PURPOSE

.01 This Chapter prescribes the DOC policies, objectives, and targets for implementing Executive Orders (EO) 11988, *Floodplain Management,* and 11990, *Protection of Wetlands*.

SECTION 2. SCOPE

.01 Provisions of this Chapter apply to Department Operating Units with program responsibilities subject to the floodplain and wetland EOs.

.02 This Chapter does not apply to assistance provided for emergency work essential to save lives and protect property and public health and safety.

SECTION 3. DEFINITIONS

.01 Action - Any Department activity including:

a. Acquiring, managing, and disposing if interests in Federal lands and facilities, including, but not limited to, purchases, construction, leases, easements, and right-of-ways;

b. Providing financial assistance including, but not limited to, grants, loans, subsidies, and guarantees or amendments to such forms of assistance for the acquisition of land and the construction of facilities and improvements; or

c. Conducting Federal activities and programs affecting land use including, but not limited to, water and related land resources planning, regulating, and licensing activities.

.02 Alternatives - Those actions, in addition to the proposed action, with similar benefits and which avoid or eliminate harms or impacts within a floodplain or to a wetland.

.03 Base Floodplain or 100-year Floodplain - An area subject to inundation from a flood of a magnitude that occurs once every 100 years on the average (the flood having a 1.0 percent chance of being equaled or exceeded in any given year).

.04 Critical Action Floodplain or 500-year Floodplain - An area subject to inundation from a flood of a magnitude that occurs once every 500 years on the average (the flood having a 0.2 percent chance of being equaled or exceeded in any given year).

.05 Critical Action - An action that, if located in a floodplain, poses a greater than normal risk for flood-caused loss of life or property. The minimum floodplain of concern for critical actions is the 500-year floodplain. Critical actions include, but are not limited to, actions which create facilities or extend the useful life of facilities:

a. Which produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials.

b. Such as schools, hospitals, and nursing homes which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury should flooding occur.

c. Such as emergency operation centers, essential public utilities, and data storage centers, which contain records or services that may become lost or inoperative should flooding occur.

.06 Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation of runoff of surface waters from any source.

.07 Floodplains - Lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, areas subject to a one percent or greater chance of flooding in any given year. The term floodplain shall be taken to mean the base floodplain unless action is a critical action, in which case the critical action floodplain will be a minimum floodplain of concern.

.08 Impacts - Changes in floodplain or wetland values and functions. Impacts may occur as either direct or indirect results of an action. Impacts are a direct result of an action whenever the action causes a change in floodplain or wetland values and functions. Impacts are an indirect result of an action whenever an action induces or makes possible related activities that affect the natural values and functions of floodplains or wetlands.

.09 Minimize - A reduction to the smallest amount or degree practical.

.10 Mitigation Measures - Measures to minimize the impacts of the proposed action on a floodplain or wetland, including measures to preserve and, wherever practical, restore natural values and functions. Examples of mitigation measures include, but are not limited to:

a. Wetland habitat restoration;

b. Collecting and treating runoff resulting from an action prior to its discharge into a wetland;

c. Establishing a vegetative buffer zone between the site of a proposed action and adjacent wetland;

d. Improving habitat values and functions through management; and

e. Modification of agency action which minimizes potential harm to or within a floodplain.

.11 Practical or Practicable - An action capable of being performed within existing constraints. This test depends upon the particular situation and the constraints imposed by environmental, economic, legal, and technological considerations. The test is not limited by the temporary unavailability of sufficient financial resources to implement either an alternative to a proposed action or a mitigation measure necessary to minimize impact. Thus, alternatives or mitigation measures shall not be rejected as "impractical" solely on the basis of a reasonable increase in cost.

.12 Related Activities - Those undertakings that are interdependent parts of an action. They either make possible or support an action, or are themselves induced or supported by an action or related activities. Related activities may or may not be Federally permitted or assisted.

.13 Wetlands - Those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances do or would support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Examples of wetlands include swamps, fresh and salt water marshes, beaches, bogs, sloughs, potholes, wet meadows, mud flats, river overflows, natural ponds, as well as areas separated from their natural supply of water through man-made alterations such as dikes, berms, floodwalls, and levees.

SECTION 4. REQUIREMENTS

.01 Executive Orders.

a. EO 11988, *Floodplain Management,* dated May 24, 1977, requires Federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of flood plains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative.

b. EO 11990, *Protection of Wetlands*, dated May 24, 1977, requires a Federal agency to avoid construction or management practices that would adversely affect wetlands unless that agency finds that (1) there is no practicable alternative, and (2) the proposed action includes all practicable measures to minimize harm to the wetlands. EO 11990 also directs all Federal agencies to minimize the destruction, loss, or degradation of wetlands; and preserve and enhance the natural beneficial values of wetlands in the conduct of the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

SECTION 5. RESPONSIBILITIES

.01 Chief Financial Officer and Assistant Secretary for Administration (CFO/ASA), through the Office of Administrative Services (OAS) shall be responsible for:

a. Ensuring the Secretary's responsibilities under both EOs are carried out. In performing this duty, OAS will prepare program directives and other necessary guidance as required; and

b. Submitting any required reports to the Water Resources Council and/or the Council on Environmental Quality (CEQ), in consultation with Department Offices and Operating Units.

.02 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's wetlands and floodplain management program;

b. Preparing reports to the Water Resources Council and/or CEQ as required; and

c. Notifying Departmental Offices and Operating Units of any changes, or pending changes, to legislation or EOs pertaining to wetlands or floodplain management.

.03 Heads of Operating Units are responsible to assure compliance with the public information and other procedural requirements of the EOs and, at a minimum, apply the floodplain and wetland EOs 11988 and 11990 to the following types of activities:

a. Planning and designing new Federal facilities;

b. Modifying existing Federal facilities or constructing new ones;

c. Acquiring, managing and disposing of Federal lands and facilities;

d. Carrying out and influencing programs involving land use and water planning and development, including regulating and licensing activities;

e. Administering construction, improvement and land acquisition programs supported or assisted by Federal grants, loans or other forms of financial assistance; and

f. Issuing specific procedures for complying with both EOs if their programs produce impacts on wetlands or floodplains.

SECTION 6. OBJECTIVES

.01 Heads of Operating Units shall ensure any activities related to this Chapter are conducted in accordance with EOs 11988 and 11990, the Water Resources Council's *Floodplain Management Guidelines* (43 FR 6030), and the Water Resources Council's Unified National Program for Floodplain Management.

.02 The actions of all Operating Units shall minimize the destruction, loss or degradation of wetlands and minimize potential harms as a result of locating activities within a floodplain. Without limiting the aforementioned obligations, Operating Units shall:

a. Avoid undertaking or providing financial assistance for construction of new facilities that may affect wetlands unless the Head of the Operating Unit finds there is no practicable alternative to such new construction within the wetlands;

b. Avoid adverse effects and incompatible developments in actions located in a floodplain unless the Head of the Operating Unit finds that the only practicable alternative, consistent with law and policy, requires siting in a floodplain; and

c. Ensure that the chosen action minimizes those impacts and all practical mitigation measures are incorporated into the action to include the following:

- Minimizing the risk of loss of life and property due to flood and storm damage.
- Minimizing the adverse impacts on the floodplain or wetland values and functions.
- Restoring and preserving the natural and beneficial values served by wetlands.

.03 Each Operating Unit shall ensure its actions are consistent with state coastal zone management programs under the Coastal Zone Management Act of 1972 as amended (16 U.S.C. 1451, et seq.) , Section 10 of the Rivers and Harbors Act of 1899, and with Section 404 of the Clean Water Act of 1977 which requires Department of the Army permits for construction and disposal of dredged material

in waters of the United States, including adjacent wetlands (33 CFR 320-331) and with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973, as amended.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 Prior to implementing any action, an Operating Unit must first determine if the action under consideration is located or would impact a floodplain or wetland in accordance with the Water Resources Council's *Guidance for Determining a Floodplain Location* (42 FR 52590-52599, September 30, 1977).

.02 If a determination is made that a floodplain or wetland is impacted, the Operating Unit shall:

a. Identify and analyze resulting impacts including impacts on public health, safety, and welfare; and floodplain and wetland natural values and functions; and

b. Consistent with Section 5.02 of this Chapter, avoid such impacts or if it is determined such impacts cannot be practicably avoided, minimize such impacts.

.03 When requesting new authorizations or appropriations intended for transmittal to the Office of Management and Budget, indicate if the proposed action will be located in a floodplain or wetland, and whether the proposed action is in accord with EOs 11988 or 11990, respectively.

.04 Operating Units that guarantee, approve, regulate, or insure any financial transaction related to an area located in a floodplain shall, prior to completing such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the floodplain.

.05 Public Notification Requirements.

a. If it is determined a proposed action is planned for location within a floodplain or wetland, the Operating Unit shall, consistent with EO 11514, *Protection and Enhancement of Environmental Quality*, publish a notice in the newspaper of greatest circulation in the vicinity of the proposed actions for at least three consecutive days for the purpose of seeking comment on the proposed action. Such notice shall describe the nature and extent of the proposed action and the physical description of the location and surrounding area. The Operating Unit shall allow at least 30 days from the publication date of the last required notice for receipt of public comments

b. Whenever appropriate, the Operating Unit shall hold a public hearing on the proposed action to solicit comments. A public hearing shall be considered appropriate when the proposed action is a critical action as defined in 3.05 of this Chapter or an action within a wetland does not qualify for an U.S. Army Corps of Engineers' nationwide permit as set forth in 33 CFR Part 220, or a region-wide permit as set forth in 33 CFR Part 325

c. Coordinate publication activities under this Chapter with the Office of Public Affairs.

.06 Public Hearing Requirements.

a. Public hearings shall be held at a place determined to best serve the public interests with proximity to the location of the proposed action given considerable weight in that determination; and

b. Public hearings shall also be preceded by publication of at least two notices in the newspaper of greatest circulation in the vicinity of the proposed action, in addition to the publication requirements of Section 7.05 of this Chapter.

- The first such publication shall occur between 15 to 20 days before the scheduled date of the hearing. The second publication shall be 2 to 5 days before the scheduled date of the hearing.
- The notices shall provide the location, date and time of the hearing, and identify the Operating Unit conducting the hearing.
- The notices shall describe the nature and extent of the proposed action, the physical description of the location and surrounding areas, and explain the nature of the government's involvement in the action.
- Copies of the notices shall be mailed to appropriate local, state, and Federal agencies, public interest groups, news media, and any other agencies, groups, or individuals who have an interest in the action.

.07 Final Notice and Findings. Upon determination of the practical alternative and mitigation measures, the Operating Unit shall publish a final notice of the proposed action. Publish the notice in the newspaper of greatest circulation in the vicinity of the proposed action for at least three consecutive days, and include a physical description of the location and surrounding area, a detailed description of the proposed action, the measures used to mitigate impacts, and the projected date of the action's initiation and completion. The notice shall also include:

a. Reasons why the action is proposed to be located in a floodplain or wetland;

b. A statement indicating whether the action conforms to applicable State and local floodplain protection standards; and

c. A list of the alternatives considered.

.08 Regarding actions located in floodplains and wetlands, the requirements of the EOs supplement those of National Environmental Policy Act (NEPA). Since most Federal actions in floodplains and wetlands will impact these resources, an environmental document (environmental statement or assessment) will likely be required to comply with NEPA. The EOs' requirements will be included in the NEPA compliance documents for each such action for ease and economy of documentation.

SECTION 8. DEPARTMENT OF COMMERCE REAL PROPERTY

.01 Construction of structures and facilities shall be in accordance with the standards and criteria promulgated under the National Flood Insurance Program, and shall deviate only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for a given type of structure or facility.

.02 If new construction of structures or facilities must be located in a floodplain, accepted flood-proofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, structures shall be elevated above base flood level rather than filling in land, whenever practical. Where new construction must be located in a wetland, all practical measures shall be taken to minimize harm to the wetland that may result from such use.

.03 If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible Operating Unit shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

.04 When property in floodplains or wetlands is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the responsible Operating Unit should withhold such properties from conveyance. If such properties cannot be withheld from conveyance, the Operating Units shall:

a. Reference in the conveyance those uses restricted under identified Federal, state, or local floodplain or wetlands regulations; and

b. Attach other appropriate restrictions to the uses of such properties by the grantee or purchaser and any successors, except where prohibited by law.

- END -

CHAPTER 4.19 - PESTICIDES

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, objectives, and targets for the use of pesticides on the lands and waters under the jurisdiction of the DOC.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to Department Operating Units and facilities that use, handle, or store pesticides.

SECTION 3. DEFINITIONS

.01 Integrated Pest Management (IPM) - An effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM programs use current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, taking advantage of all appropriate pest management options with the least possible hazard to people, property, and the environment.

SECTION 4. REQUIREMENTS

.01 Statutes.

a. Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) - Delegates EPA the responsibility to regulate the sale, distribution, and release of pesticides, pesticide products, and pesticide devices. Registration includes approval by the EPA of the pesticide's label, which must give detailed instructions for its safe use. The EPA must classify each pesticide as either "general use," "restricted use," or both. "General use" pesticides may be applied by anyone, but "restricted use" pesticides may only be applied by certified applicators or persons working under the direct supervision of a certified applicator.

b. Resource Conservation and Recovery Act (RCRA) – Governs the disposal of pesticides. Commercial chemical products such as pesticides become "solid wastes" (and thus, potentially, hazardous wastes) at the point where the pesticide's holder (i.e., end-user, dealer, distributor, or registrant) decides to discard them. If a pesticide product is listed in 40 CFR 261.31 or 261.33, or exhibits a hazardous waste characteristic identified in 40 CFR 261.21 through 261.24, RCRA indicates it becomes a hazardous waste at the point when its holder decides to discard it. Parts 261.21 through 261.24 identify the following criteria; ignitability, corrosivity, reactivity, or toxicity characteristics.

c. Title III of the Superfund Amendment and Reauthorization Act (SARA) - (also known as the Emergency Planning and Community Right to Know Act - EPCRA) governs storage and release of hazardous chemicals and provides a community right-to-know protection. SARA affects anyone storing certain pesticides (and other chemicals) in quantities exceeding SARA reportable quantities.

d. 1990 Farm Bill - The Federal Pesticide Recordkeeping Requirement commonly referred to as the 1990 Farm Bill requires that certified applicators keep records of the application of restricted use pesticides. These records must be kept for two years and must be recorded within 14 days of application. Commercial applicators applying pesticides on farms must provide this information to their customers as part of their monthly billing (every 30 days).

.02 A few pesticides are also regulated as toxic pollutants under Section 307(a) of the Clean Water Act and by the Primary Drinking Water Standards under the Safe Drinking Waster Act.

SECTION 5. RESPONSIBILITIES

.01 DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC's pesticide program;

b. Keeping a record of any reportable spills or releases for not less than five years; and

c. Notifying Departmental Offices and Operating Units of any amendments or changes to current legislation impacting pesticide use, storage, or disposal.

.02 Departmental Offices and Operating Units shall be responsible for:

a. Ensuring compliance with FIFRA, as amended, EPA implementing regulations, and the policies prescribed in this Chapter;

b. Evaluating, controlling, and monitoring pesticide use for safety, protection of the environment, and compliance with the NEPA, as amended, and the Endangered Species Act, as amended;

c. Notifying the DOC Environmental Manager of any significant spill or release;

d. Using pesticides only after full consideration of various alternatives, analyses of environmental effects, safety concerns, effectiveness of pesticides, long-term implications, and costs. The range of alternatives include: chemical, biological, and physical methods, and no action. If it is determined a pesticide must be used, select a pesticide that selectively targets the pest, is the least toxic, and least likely to harm or impact the environment;

e. Using only pesticides registered by the EPA in full accordance with FIFRA, as amended, and as provided in regulations, orders, or permits issued by EPA;

f. Utilizing pest management research, control, education, and assistance programs to develop, support, and adopt IPM strategies wherever practical;

g. In wilderness areas, using pesticides only where necessary to protect human health or to prevent loss of significant resource values on public or private lands within or bordering the wilderness area; and

h. Not using pesticides in areas with endangered and threatened animal or plant species unless it is determined the use will not adversely affect the species or its critical habitat.

Make this determination according to the Endangered Species Act consultation process prescribed in 50 CFR 402.

SECTION 6. OBJECTIVES

.01 Department Operating Units and facilities will comply with FIFRA and strive to reduce the amount of active ingredient applied.

SECTION 7. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 FIFRA regulates other toxic substances, better known as pesticides. A pesticide is defined as any substance intended to prevent, destroy, repel or mitigate pests. FIFRA requires registration of all pesticides, restricts use of certain pesticides, authorizes experimental use permits and recommends safety standards for pesticide handlers and applicators.

.02 Pesticides are registered for five years and classified for either general or restricted usage. Restricted use means that the pesticide can only be applied either by or under the direct supervision of a certified applicator. Pesticides must be labeled with the specific ingredients contained, warnings, registration number, and any special use restrictions. Regulations also specify tolerance levels for certain pesticide chemicals in or on agricultural commodities. These tolerance levels apply to over three hundred different compounds and residue tolerances range from 0 to 100 parts per million.

.03 The handling and use of restricted-use pesticides must be conducted with caution and only by personnel who are either certified or under the direct supervision of a certified applicator.

.04 Transport, store, and dispose of pesticides and pesticide containers in a manner that safeguards human health, fish, and wildlife, and prevents soil and water contamination.

.05 Conduct or require quality control monitoring before, during, and after any pesticide application in ecologically sensitive areas. Determine whether the application achieved the desired effects and whether there are any significant, unanticipated effects.

.06 Post notices at the usual points of entry to areas treated with restricted-use pesticides so that occupants, land users, and visitors are informed sufficiently in advance to avoid possible exposure. Local managers may make exceptions to the posting requirement when they judge no public exposure is likely. Such posting will contain:

a. Statement that the area has been or will be treated with a named pesticide;

b. The date of the treatment, telephone number, and address for further information; and

c. A list of appropriate precautions to be taken or the date when re-entry is judged to be safe.

- END -

CHAPTER 4.20 - SUSTAINABLE BUILDINGS

SECTION 1. GENERAL

.01 The DOC owns, operates, or leases approximately 983 buildings with a total floor space of 14,063,817 square feet. These structures and their sites affect our natural environment, our economy, and the productivity and health of the workers and visitors to these buildings.

.02 The DOC is committed to locating, designing, constructing, maintaining, and operating these facilities in an energy efficient and sustainable manner that strives to achieve a balance that will realize high standards of living, share life's amenities, maximize attainable reuse and recycling of resources, in an economically viable manner, consistent with DOC missions. In doing so and where appropriate, the DOC will use life cycle concepts, consensus-based standards, and performance measurement and verification methods that utilize good science, and lead to sustainable buildings.

.03 Through sustainable design and construction of facilities, the DOC will demonstrate responsible environmental stewardship behavior and help create the framework within which the building industry as a whole can shift towards practices that will promote sustainable development.

SECTION 2. PURPOSE

.01 The purpose of this Chapter is to establish Department policy, goals, objectives, targets, guidance and procedures to ensure compliance with Federal sustainable buildings requirements.

SECTION 3. SCOPE

.01 This Chapter applies to all new construction and major renovations.

.02 Sustainable building practices apply to all Departmental Offices' and Operating Units' owned, leased, or operated buildings, which are deemed to be appropriate, given the size and resource-intensity of the structure.

SECTION 4. DEFINITIONS

.01 Appropriate Buildings - Appropriate buildings are those in excess of 3,000 sq ft.

.02 Leased Buildings - As much as possible and practicable, energy and water efficiency shall be considered when entering into new leases and renegotiating or extending existing leases.

.03 Not Appropriate Buildings - Buildings not appropriate for the consistency requirement include: enclosed storage buildings, oil and paint storage buildings, open pole sheds, public restroom buildings, maintenance shops, pump houses, and similar structures. Such buildings must be as energy efficient as possible, including high-efficiency heating equipment, insulation, energy-efficient doors, windows, etc and should also take advantage of passive solar heating by substituting translucent fiberglass panels in place of metal wall panels on the south facing side of the building and providing simple overhangs to shade this glazing during the summer. In vary large buildings translucent fiberglass panels can also be used in the roof to provide daylighting to the interior, but this should only be done in buildings that are not air conditioned since simple fiberglass roof skylights can also introduce summer solar heat gain.

.04 Sustainable Buildings - Any Department or Operating Unit building that has a positive impact on the environment, both during its construction and its operational lifetime. Energy and water efficiency, natural and economic resource efficiency, and a healthy interior environment are the hallmarks of a sustainable building. Land use, building design, construction and operational strategies come together in environmentally integrated building design. The following traits are common to sustainable buildings:

a. Buildings that meet mission requirements;

b. Buildings that leave as small an environmental footprint as possible, fit well with the needs of the local community and are economical to run over their entire life cycle;

c. Buildings designed to be carbon neutral;

d. Buildings designed to minimize energy consumption, with effective insulation and the most efficient heating or cooling systems and appliances;

e. Buildings constructed with good access to public transport;

f. Buildings constructed with a minimum of waste in their construction and maximum re-use of on-site materials;

g. Buildings designed and constructed to enable their occupants to use less water; and

h. Buildings designed to make recycling and composting easy for the occupants.

.05 Carbon Neutral - Emitting no carbon dioxide into the atmosphere; or, employing a technique to absorb carbon dioxide so it is not emitted.

SECTION 5. REQUIREMENTS

.01 Statutes.

a. Energy Independence and Security Act (EISA 2007), Public Law 110-140, The EISA consists of provisions designed to increase energy efficiency and the availability of renewable energy. The highlights of key provisions relating to Federal agencies are a 20% reduction in annual petroleum consumption and a 10% increase in annual alternative fuel consumption for Federal fleet vehicles; a 30% decrease in total energy use in Federal buildings by 2015 (as measured against the 2005 level); reduction in fossil fuel energy use by 55% by 2010 (as measured against 2003 level) and a 100% reduction by 2030; a prohibition from leasing buildings that have not earned an EPA Energy-Star label; buildings over 5,000 sq feet have to have maintenance strategies to control storm water runoff; requires Federal procurement to focus on Energy-Star and FEMP designated products; and directs Federal agencies to develop an annual report that describes initiatives to improve energy efficiency, reduce energy costs, reduce green house gas emission, and permanently authorizes ESPCs.

b. Energy Policy Act of 2005 (EPACT 2005), Public Law 109-058, directs Federal agencies to reduce energy consumption annually by 2% per year from 2006 to 2015, install advanced electric meters in Federal buildings by 2012, procure Energy Star® and FEMP-recommended products, design new buildings to 30% below applicable energy standards if

cost-effective, and consume an amount of renewable energy at least equivalent to a specified percentage of their electric consumption; and reauthorizes the use of ESPCs through the end of FY 2016.

.02 Executive Orders.

a. Executive Order (EO) 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*, dated January 26, 2007, combines the Federal environmental, energy and transportation goals in one EO. The energy requirements include a 3% annual reduction in energy consumption, or 30% by 2015; and 50% of the renewable energy must be from new renewable sources (in service after January 1, 1999). Other provisions include reducing (potable) water consumption by 2% per year, or 16% by 2015, and constructing or renovating buildings in accordance with sustainable strategies.

.03 Other Federal Guidance.

a. *Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding* (2006). The MOU is a voluntary Federal government commitment to designing, locating, constructing, maintaining, and operating facilities in an energy efficient and sustainable manner, and commits the DOC and its Operating Units to implement various aspects of sustainable building in new building designs. The accompanying *Guiding Principles* provides the details of the goals and expectations.

SECTION 6. RESPONSIBILITIES

.01 The Chief Financial Officer and Assistant Secretary for Administration serves as the DOC's Senior Official for Sustainable Buildings, and is responsible for serving as the Senior Agency Official for the DOC's sustainable building program.

.02 The Associate Director, Office of Administrative Services shall be responsible for developing and implementing the DOC's sustainable building program.

.03 DOC Sustainability Manager shall be responsible for:

a. Managing the DOC sustainable building program;

b. Preparing the annual report on success and lessons learned on one major building each fiscal year to the High Performance Federal Buildings Database;

c. Preparing report to Office of Management and Budget on DOC building lifecycle stages; and

d. Informing Departmental Offices and Operating Units of any new requirements or legislation pertaining to sustainable buildings.

e. Reviewing checklists from Operating Units for existing buildings and new construction for inclusion in DOC scorecard report.

.04 Heads of Operating Units shall be responsible for:

a. Striving for a LEED silver rating on all new construction and major renovation projects;

b. Ensuring Project Managers are properly trained to utilize the "High Performance and Sustainable Buildings *Guiding Principles*, Checklists for Existing and New Buildings;"

c. Using integrated project teams to ensure identification of key players and stakeholders in all types of construction and major renovation projects; and

d. Reporting annually to the DOC Sustainaility Manager on the status of the implementation of *Guiding Principles* for new, existing and leased buildings; consistent with EO and EPACT' 05; and is on track to meet 15% goal in EO 13423.

.05 Facility Managers located at each Operating Unit shall be responsible for:

a. For Existing Buildings:

- Assessing current building inventory utilizing "High Performance and Sustainable Buildings Guiding Principles, Checklist for Existing Buildings;" www1.eere.energy.gov/femp/ controlledaccess/docs/doe_hpsb_assessment.xls ;
- Implementing measures to reduce inventory of non-sustainable buildings; and
- Reporting annually to the DOC Sustainability Manager results of inventory on existing buildings.

b. For New Building Construction:

- Utilizing the "High Performance and Sustainable Buildings Guiding Principles, Checklist for New Construction." www1.eere.energy.gov/femp/controlledaccess/docs/ doe_hpsb_assessment.xls, and
- Reporting Annually to the DOC Sustainability Manager results of new construction inventory.

SECTION 7. OBJECTIVES

.01 Department and Operating Unit facilities, both new and existing, should serve as models for a healthy workplace with minimal environmental impacts. To achieve this goal, new construction and major renovation projects shall utilize both innovative, state-of-the-art technologies and a holistic approach to design, construction, renovation, and use. Project managers, designers, facility managers, and others will work with the private sector to identify opportunities for innovation and help create markets for both products and design concepts. Important considerations in the design, construction, and use of Department-owned and -leased facilities include the following:

a. Site planning that utilizes resources naturally occurring on the site, such as solar and wind energy, natural shading, native plant materials, topography, and drainage.

b. Location and programs to optimize use of existing infrastructure and transportation options, including the use of alternative work modes such as telecommuting and teleconferencing.

c. Use of recycled content and environmentally preferable construction materials and furnishings, consistent with Federal and Department procurement guidelines.

d. Minimization of energy and materials waste throughout the building's life cycle, from design through demolition or reuse.

e. Design of the building envelope for energy efficiency.

f. Use of materials and design strategies to achieve optimal indoor environmental quality, particularly including light and air, to maximize health and productivity.

g. Operation systems and practices that support an integrated waste management system.

h. Recycling of building materials at demolition.

i. Management of water as a limited resource in site design, building construction, and building operations.

j. Utilization of solar and other renewable technologies, where appropriate.

.02 By 2015, 15% of the existing Department capital asset building inventory, as of the end of fiscal year 2015, shall incorporate the sustainable building requirements of EO 13423 and its Implementing Instructions.

.03 Objectives for facility design and construction.

a. When planning the funding and design for construction or renovation of building that meet the DOC capital asset threshold, the construction or renovation shall meet or exceed statutory goals and address each of the five *Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings (Guiding Principles)*. Written justification must be provided if an Operating Unit proposed not to comply.

b. All business cases for new construction or renovation developed for Office of Management and Budget A-11, Part 7, Section 300 (Exhibit 300) shall incorporate the *Guiding Principles* to the greatest extent practicable. This requirement applies to construction of new buildings, renegotiation/extension of leases, and major renovations.

c. To the greatest extent practicable, selection criteria for acquiring leased buildings shall include a preference for buildings that meet the goals of the *Guiding Principles*. Build-to-suit lease solicitations shall incorporate criteria for sustainable design and development, energy efficiency, and verification of building performance in accordance with the *Guiding Principles*.

d. The latest technical guidance for implementing the *Guiding Principles*, Whole Building Design Guide and other best practices developed by the Interagency Sustainability Working Group shall be used in the planning and design phases of new construction and renovation. This information can be found at www.wbdg.com.

SECTION 8. MAJOR PROGRAM PROCEDURES

.01 Consistent with and in addition to Federal policy, statutes, EOs and supplemental agency policies and guidance, the DOC and its Operating Units shall follow a common set of sustainable *Guiding Principles* (Section 8) for integrated design, energy performance, water conservation, indoor environmental quality, and materials.

.02 The DOC and its Operating Units will demonstrate leadership in sustainable buildings by striving to achieve a minimum rating of Silver in the U.S. Green Buildings Council Leadership in Energy and Environmental Design (LEED) program or the equivalent in a similar sustainable building rating system and incorporating the sustainable building requirements of EO 13423 and Implementing Instructions.

.03 Acquisition Review Board submittals shall include plans for addressing sustainable building practices in major real estate project proposals, including supplemental information for the Exhibit 300 and justification for not using sustainable buildings practices.

.04 Completed sustainable building projects will be entered into the High Performance Federal Buildings database (www.eere.energy.gov/femp/highperformance/index.cfm).

SECTION 9. GUIDING PRINCIPLES

.01 Employ integrated design principles.

a. Use a collaborative, integrated planning and design process that:

- Initiates and maintains an integrated project team in all stages of a project's planning and delivery;
- Establishes performance goals for siting, energy, water, materials, and indoor environmental quality along with other comprehensive design goals; and, ensures incorporation of these goals throughout the design and lifecycle of the building; and,
- Considers all stages of the building's lifecycle, including deconstruction.

b. Employ total building commissioning practices tailored to the size and complexity of the building and its system components in order to verify performance of building components and systems and help ensure that design requirements are met. This should include a designated commissioning authority, commissioning requirements in construction documents, a commissioning plan, verification of the installation and performance of systems to be commissioned, and a commissioning report.

.02 Optimize Energy Performance.

a. Energy Efficiency

- Establish a whole building performance target that takes into account the intended use, occupancy, operations, plug loads, other energy demands, and design to earn the Energy Star targets for new construction and major renovation where applicable.
- For new construction, reduce the energy cost budget by 30 percent compared to the baseline building performance rating per the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., (ASHRAE) and the

Illuminating Engineering Society of North America (IESNA) Standard 90.1-2004, Energy Standard for Buildings Except Low-Rise Residential.

- For major renovations, reduce the energy cost budget by 20 percent below pre-renovations 2003 baseline.

b. Measurement and Verification

- In accordance with DOE guidelines issued under section 103 of the Energy Policy Act of 2005 (EPAct), install building level utility meters in new major construction and renovation projects to track and continuously optimize performance.
- Compare actual performance data from the first year of operation with the energy design target. After one year of occupancy, measure all new major installations using the Energy Star Benchmarking Tool for building and space types covered by Energy Star.
- Enter data and lessons learned from sustainable buildings into the High Performance Buildings Database. (www.eere.energy.gov/femp/highperformance/index.cfm)

.03 Protect and Conserve Water.

a. Indoor Water. Employ strategies that in aggregate use a minimum of 20 percent less potable water than the indoor water use baseline calculated for the building, after meeting the Energy Policy Act of 1992 fixture performance requirements.

b. Outdoor Water. Use water efficient landscape and irrigation strategies, including water reuse and recycling, to reduce outdoor potable water consumption by a minimum of 50 percent over that consumed by conventional means (plant species and plant densities). Employ design and construction strategies that reduce storm water runoff and polluted site water runoff.

.04 Enhance Indoor Environmental Quality.

a. Ventilation and Thermal Comfort. Meet the current ASHRAE Standard 55-2004, Thermal Environmental Conditions for Human Occupancy, including continuous humidity control within established ranges per climate zone, and ASHRAE Standard 62.1-2004, Ventilation for Acceptable Indoor Air Quality.

b. Moisture Control. Establish and implement a moisture control strategy for controlling moisture flows and condensation to prevent building damage and mold contamination.

c. Daylighting. Achieve a minimum of daylight factor of 2 percent (excluding all direct sunlight penetration) in 75 percent of all space occupied for critical visual tasks. Provide automatic dimming controls or accessible manual lighting controls, and appropriate glare control.

d. Low-Emitting Materials. Specify materials and products with low pollutant emissions, including adhesives, sealants, paints, carpet systems, and furnishings.

e. Protect Indoor Air Quality During Construction. Follow the recommended approach of the Sheet Metal and Air Conditioning Contractor's National Association Indoor Air Quality Guidelines for Occupied Buildings under Construction, 1995. After construction

and prior to occupancy, conduct a minimum 72-hour flush-out with maximum outdoor air consistent with achieving relative humidity no greater than 60 percent. After occupancy, continue flush-out as necessary to minimize exposure to contaminants from new building materials.

.05 Reduce Environmental Impact of Materials.

a. Recycled Content. Use products meeting or exceeding EPA's recycled content recommendations. For other products, use materials with recycled content such that the sum of post-consumer recycled content plus one-half of the pre-consumer content constitutes at least 10% (based on cost) of the total value of the materials in the project.

b. Biobased Content. Use products meeting or exceeding USDA's biobased content recommendations. For other products, use biobased products made from rapidly renewable resources and certified sustainable wood products.

c. Construction Waste. During a project's planning stage, identify local recycling and salvage operations that could process site related waste. Program the design to recycle or salvage at least 50 percent construction, demolition and land clearing waste, excluding soil, where markets or on-site recycling opportunities exist.

d. Ozone Depleting Compounds. Eliminate the use of ozone depleting compounds during and after construction where alternative environmentally preferable products are available, consistent with either the Montreal Protocol and Title VI of the Clean Air Act Amendments of 1990, or equivalent overall air quality benefits that take into account life cycle impacts.

SECTION 10. OTHER INFORMATION

.01 Durable and Adaptable Designs. Designing for durability and adaptability usually requires a higher initial cost than minimum code design, but this investment improves a building's life-cycle cost-benefit outcome. Less durable components should be designed for easy, low cost maintenance and replacement and recycling. An environmental life cycle analysis of materials provides basis for prioritizing before specifications are written. Adequate funds for preventive maintenance are critically important for durability.

a. Environmental sustainability is a factor in interviews and selection of design teams and contracts for services.

b. Designers are required to comply with Federal sustainable building standards, such as the Whole Building Design Guide, EO 13423, etc.

c. Chillers over 300 tons are evaluated on life cycle cost basis and purchase is not necessarily awarded on lowest price.

.02 Energy Efficiency and Conservation. Production and use of energy have the largest impacts on the environment of all factors in building design. An integrated design takes advantage of interactions of separate elements, such as day lighting, lighting, controls, and mechanical and natural ventilation systems. Good solar orientation of building envelopes and the use of low emissivity coatings on window glass are major factors in integrated design. Renewable fuels and electric green power from

solar, wind, geothermal, biomass and other low impact sources may be available. In renovation projects, the common practice of investing in energy efficiency measures with relatively short payback times, while overlooking more extensive retrofits with longer payback periods, should be avoided.

.03 Water Conservation. Location, size and type of site, and the availability of water supply and wastewater treatment may affect the priority for water conservation. Water-efficient plumbing fixtures and appliances are required by codes. Collection of rainwater and use of graywater for irrigation can reduce water bills. Stormwater infiltration designs can recharge water into aquifer. Some water efficiency measures may add to initial construction cost, however savings in water and sewage bills and longevity of systems can offset costs.

.04 Construction and Demolition Waste. Cost of labor to sort and recycle waste is usually offset by sale of materials and reduced disposal costs. Local recycling businesses purchase a variety of demolition and waste materials. Non-profit groups may take donations of used materials.

.05 Environmentally Preferable Materials. Raw materials must be extracted from the earth or harvested. Energy is used and pollutants are emitted during manufacturing and shipping. Some materials continue to emit pollutants during installation and for some extended period of time after building is occupied. Some materials have negative environmental impacts during renovation and replacement, and are difficult to recycle at end of useful life. Green materials and systems may cost more initially then conventional materials. A life cycle cost approach that considers useful life, maintenance and other relevant factors should be used in comparative evaluations and specifications. Green building materials may be specified and bid as alternates. Consider use of:

a. Energy Efficient Products

b. Energy Star Products

c. EPAct Products

d. EPA-Designated Recycled Content Products

e. Bio-preferred products

f. Environmentally Preferred Products

.06 Indoor Air Quality. Good indoor air quality and acoustical and lighting quality are essential for good health and productivity. Day lighting is a valuable element of indoor quality in most spaces. Innovation can help the design team fully comply or exceed prescriptive requirements of the building code, lighting and ventilation standards, and other environmental regulations. Higher indoor environmental standards may require higher initial cost and a longer period for return of investment. Heating, ventilation and air-conditioning systems may use variable air volume and digital controls to improve comfort and energy efficiency. High efficiency filters and sensors that measure carbon dioxide and selected pollutants allow a reduction in ventilation air, thereby reducing operating cost.

.07 Site Requirements. Evaluation of the local ecosystem will help determine the relative importance of various site elements in a sustainable design. Native trees and other landscape plants reduce the need for pesticides, fertilizer and irrigation and mowing. Wetlands, native species and topsoil should be protected. On-site innovative wastewater systems include constructed wetlands. Solar access is a critical element in energy efficient, integrated design. Some site measures cost less than traditional

practice; others may cost more. Cost of a whole green building and site is not necessarily higher due to integration of building systems and synergy. Trees and vegetation that are appropriately located are preserved. Some demolition and construction site waste is recycled.

.08 Community Requirements. Zoning and land use planning have a long term, financial impact on energy use, taxes public infrastructure, safety, health and productivity. Mixed use zoning, telecommuting, public transit, are important elements in sustainable land use planning and design. When buildings are sited close together the feasible use of central chilled water, steam or hot water systems can provide higher efficiency at lower cost. Higher density urban communities can incorporate pedestrian corridors, bicycle paths and public transit that reduce energy use and pollution.

.09 Facility Preservation. Extending the life of existing buildings and infrastructure reduces waste, conserves natural and cultural resources and reduces environmental impact. Renovations are usually less expensive than building new space. An evaluation comparing a proposed renovation design and estimated cost of construction of new space provides a rational basis for decision. Buildings of significant historical value should be preserved.

.10 Building Envelope and Interiors. Insulate roofing and wall systems at higher values than minimum code. Windows larger than minimum code size to provide more useable daylight. Window frames with thermal breaks and glass with low emissivity coatings. Durability, maintenance and life cycle cost of materials are considered.

.11 Heating, Ventilation and Air-conditioning. Consider use of central chilled water, steam or hot water systems for higher efficiency. Variable air volume systems to improve comfort and energy efficiency. Sensors to measure carbon dioxide and adjust amount of ventilation air. Digital control systems for more efficient operation and maintenance.

.12 Electrical and Lighting. Consider use of T8 fluorescent lighting with electronic ballasts rather than magnetic ballasts. Electrical equipment with higher efficiency than required by minimum code.

- END -

CHAPTER 4.21 - ELECTRONIC STEWARDSHIP

SECTION 1. PURPOSE

.01 The purpose of DOC's electronic stewardship program is to reduce the environmental impact of DOC electronic equipment that is purchased, used, and excessed. This will be achieved through continuous improvements to the acquisition, design, specifications, materials choices, distribution, and use of new electronic equipment, and through the reuse, demanufacturing and recycling of surplus electronic equipment.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Departmental Offices and Operating Units of the DOC.

SECTION 3. DEFINITIONS

.01 Energy Star - Energy Star® products are the same or better than standard products, only they use less energy. To earn the Energy Star®, they must meet strict energy efficiency criteria set by the EPA or DOE.

.02 Electronic Products - Devices that are dependent on electric currents or electromagnetic fields in order to work properly.

.03 Electronic Product Environmental Assessment Tool (EPEAT) - A procurement tool designed to help large volume purchasers in the public and private sectors evaluate, compare, and select electronic products based on their environmental attributes. Manufacturers use an online registration process to identify which criteria each of their products meets. Products are then listed on the EPEAT database.

.04 End-of-life - The point in time when a piece of equipment is no longer needed by DOC and is determined to be excess.

.05 Recycling - The series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion.

.06 Reuse - Removing or recovering components or systems of components from the whole product, and putting the components or systems of components back into productive use.

SECTION 4. REQUIREMENTS

.01 EO 13423 *Strengthening Federal Environmental, Energy, and Transportation Management*,dated January 26, 2007, and Instructions for Implementing Executive Order 13423, dated March 29, 2007, directs Federal agencies, including DOC, to develop and implement an electronic stewardship program. The EO sets forth tangible electronic stewardship requirements that Federal agencies must meet.

.02 DOC Personal Property Management Manual, contains Departmental policy and procedures for the management of personal property that is owned by or leased to the Department. The Personal Property Manual implements and supplements those portions of the Federal Property Management Regulations that pertain to the acquisition, management, utilization and disposal of personal property.

.03 DOC Green Procurement Program, administered by the Office of Acquisition Management, provides Departmental policy and procurement requirements for green or environmentally friendly product preferences.

SECTION 5. RESPONSIBILITIES

.01 The Chief Financial Officer and Assistant Secretary for Administration serves as the DOC's Senior Official for energy, environment and transportation, and is responsible for implementing EO 13423.

.02 The Director, Office of Administrative Services, shall be responsible for:

a. Directing and establishing electronic stewardship performance measures to meet the requirements of EO 13423;

b. Submitting annual environmental reports to Office of the Federal Environmental Executive;

c. Distributing information on best practices through awareness and outreach programs to facilitate markets for environmentally preferable products, services and new technologies;

d. Facilitating and coordinating educational and promotional programs for Department employees and contractors; and

e. Conducting reviews to determine progress and compliance with Green Procurement Program requirements.

.03 The Senior Procurement Officer shall be responsible for:

a. Providing senior acquisition leadership for implementing the DOC Green Procurement Program; ensuring that green procurement requirements, including EPEAT, are addressed in DOC acquisition policy and guidance; and

b. Ensuring that Senior Operating Unit Procurement Officials conduct compliance monitoring of their green procurement data and oversee corrective actions.

.04 The DOC Environmental Manager shall be responsible for:

a. Developing and managing DOC’s electronic stewardship program;

b. Advising Requesting Officials, Contracting Officer Representatives and Contracting Officers on sources for environmentally preferable products and services;

c. Reviewing and concurring in Requests for Procurement Exceptions under DOC’s Green Procurement Program; and

d. Reporting on the status of DOC’s Electronic Stewardship program in accordance with EO 13423.

.05 The DOC Office of Chief Information Technology shall be responsible for:

a. Establishing and implementing DOC policy and guidance to extend the useful life of DOC electronic products to four years and establishing DOC standards for the use of energy star settings on electronic products.

b. Advising and providing support to Requesting Officials, Contracting Officer Representatives, and Contracting Officers in the appropriate use of specifications and requirements descriptions for EPEAT registered items, in compliance with Departmental Information Technology (IT) policies; and

c. Reviewing and concurring in Requests for Procurement Exceptions under the Department's Green Procurement Program for acquisitions involving IT.

.06 Senior Operating Unit Officials shall be responsible for:

a. Implementing procurement best practices in relation to green purchasing and electronic stewardship;

b. Ensuring purchase of EPEAT registered electronic products and that the useful life of all electronic equipment is extended to four years; and

c. Ensuring that the energy star features are enabled on all electronic equipment to the maximum degree based on operating unit mission needs.

.07 Requesting Officials shall be responsible for:

a. Reviewing and becoming familiar with the Green Procurement Program and EPEAT standards;

b. Ensuring that relevant EPEAT requirements are considered early in the acquisition strategy and identified prior to submission of the procurement request; and

c. Consulting with contracting, environmental, and energy personnel to facilitate market research and acquisition planning, and enhancing statements of work or specifications to incorporate green procurement requirements.

SECTION 6. MAJOR PROGRAM REQUIREMENTS AND PROCEDURES

.01 The DOC is committed to achieving the Target Electronics Stewardship Goals outlined in the EO by 2012. These goals cover Acquisition, Operations and Maintenance, and End-of-Life issues.

a. Acquisition Phase:

- DOC will purchase electronic products that are EPEAT-registered and are rated "Silver" or higher, for products where EPEAT standards exist, unless exempt for mission critical considerations.
- Where no EPEAT standards exist, DOC will purchase Energy Star® products or other energy-efficient items listed on the Federal Energy Management Program Product Energy Efficiency Recommendations product list.
- DOC will ensure applicable information technology contracts incorporate

appropriate language for the procurement of EPEAT-registered equipment

b. Operations and Maintenance:

- DOC will reduce its energy usage by enabling the Energy Star® feature on 100 percent of computers and monitors, or to the maximum degree based on agency mission needs.
- DOC will strive to extend the useful life of electronics within the DOC to a minimum of four years.
- DOC will use EPA guidance to improve the operation and maintenance of electronics products. In print and copy services, DOC will promote electronic alternatives and best practices for printing/copying, such as utilizing the double-sided feature.

c. End-of-Life**:** DOC will perform due diligence to ensure that the electronic products that have reached the end of their useful life are recycled by companies or organizations that use environmentally sound management practices.

- Ensure 100% of DOC excess electronic products will be reused, donated, sold or recycled using environmentally sound management practices at end-of-life and in accordance with the DOC Personal Property Manual.
- Comply with General Services Administration procedures for transfer, donation, sale, and recycling of electronic equipment.
- Use national standards, best management practices, or a national certification program for recyclers.

.02 Federal Electronics Challenge (FEC). DOC will participate in the FEC to the lowest level possible (facility). FEC is a voluntary partnership program sponsored by the Federal Environmental Executive and the Environmental Protection Agency to empower Federal agencies to manage their electronics in an environmentally sound manner during all three life-cycle phases. DOC partners will report to the FEC and the Department Environmental Manager annually on their progress in meeting FEC goals.

- END -

CHAPTER 4.22 - ENVIRONMENTAL AWARDS PROGRAM

SECTION 1. PURPOSE

.01 This Chapter prescribes the policies, responsibilities, objectives, and targets for a Department-wide environmental awards program. This awards program is designed to recognize individuals and teams who made significant contributions to waste prevention, recycling, affirmative procurement, pollution prevention, or environmental management.

SECTION 2. SCOPE

.01 The provisions of this Chapter apply to all Department personnel and programs that directly address recycling, waste prevention, affirmative procurement, pollution prevention, and environmental management. This includes, but is not limited to, research and development leading to pollution prevention, as well as the development and implementation of procedures that reduce the use of environmentally hazardous systems or materials, increase recycling rates or solid waste diversion rates, or increase the purchase of environmentally preferable products.

SECTION 3. DEFINITIONS

.01 Environmentally Preferable Products - Products or services that "have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance or disposal of the product or service.

.02 Pollution Prevention - Defined by the Pollution Prevention Act as source reduction but also includes other practices that reduce or eliminate the creation of pollutants through (1) increased efficiency in the use of raw materials, energy, water, or other resources, or (2) protection of natural resources by conservation.

.03 Source Reduction - Any act which:

a. Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

b. Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants. Source reduction includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

SECTION 4. RESPONSIBILITIES

.01 The Director, Office of Administrative Services (OAS), shall be responsible for:

a. Approving the final selection of the award recipients; and

b. Notifying each award recipient as soon as possible following the selection.

.02 The DOC Environmental Manager shall be responsible for:

a. Developing and managing the DOC environmental awards program;

b. Issuing a call letter for nominations to all Department Offices and Operating Units. The letter will include the awards criteria as developed by the DOC Environmental Manager;

c. Establishing a panel, comprised of Department personnel, to review nominations for the purposes of recommending selected nominees for awards; and

d. Acquiring additional information on the nominees and preparing selection/briefing packages on the nominees, as appropriate.

SECTION 5. AWARDS

.01 The awards described herein are honorary; no monetary awards shall be provided to the recipients.

.02 Awards will be given to individuals or teams for outstanding performance in the following categories:

a. The "Waste/Pollution Prevention Award" recognizes reductions in the generation of hazardous and/or non-hazardous wastes through any change in the design, manufacturing, or use of materials for products; and/or the amount of toxicity in waste materials prior to recycling, treatment or disposal.

b. The "Recycling Award" recognizes outstanding activities, including collection, separation and processing by which products or other materials are recovered from the waste stream for use in the manufacture of new products (other than fuel for producing heat or power by combustion).

c. The "Model Recycling Facility Award" recognizes a facility for outstanding leadership in recycling and will serve as an example for other facilities to emulate.

d. The "Environmental Management Systems Award" recognizes the most effective and innovative programs for environmental management system implementation. Implementation of environmental management systems shall include measurable environmental goals, objectives, and targets that are reviewed and updated as appropriate; systems should include a compliance component.

e. Any additional categories deemed appropriate by the DOC Environmental Manager.

SECTION 6. PROCEDURES

.01 The awards program process shall be conducted in a manner that recognizes the broadest number of people and organizations possible while maintaining the fairness and integrity of the process.

.02 Nominations must be submitted to the OAS. Nominations for individuals must be approved by the supervisor. Nominations for teams must be approved by a senior manager responsible for the team actions. Senior managers and supervisors shall ensure that no adverse actions or pertinent performance issues are pending against any of the nominees. Nominations shall be submitted in accordance with the call letter issued for nominations.

.03 The nominations will be reviewed by a panel comprised of Department personnel. The panel will evaluate the nominees against award criteria and recommend one individual and/or one team to receive each award. The panel should complete this process by December 31 of the same year.

.04 Award winners will be eligible to represent the DOC and compete for the White House Closing the Circle Awards.

- END -

APPENDIX A - REFERENCES

GENERAL

This appendix lists the Federal environmental laws, regulations, and Executive Orders referenced and used to develop this manual.

FEDERAL LAWS

a. *1990 Farm Bill* (*Public Law 101-624*)

b. *Abandoned Shipwreck Act of 1987* (43 U.S.C. 2101-2106)

c. *Archaeological and Historic Preservation Act* (16 U.S.C 469c-1)

d. *Clean Air Act* (42 U.S.C. 7401-7671q), as amended

e. *Clean Water Act* (33 U.S.C. 1251, et. seq.), as amended

f. *Coastal Zone Management Act of 1972* (16 U.S.C. 1451, et. seq.)

g. *Comprehensive Environmental Response, Compensation and Liability Act*, as amended

h. *Superfund Amendments and Re-authorization Act* (42 U.S.C. 9601, et. seq.)

i. *Emergency Planning and Community Right-to-Know Act* (42 U.S.C. 11001, et. seq.)

j. *Endangered Species Act* (16 U.S.C. 531, et. seq.)

k. *Energy Independence and Security Act 2007 (Public Law 110-140)*

l. *Energy Policy Act 1992 (Public Law 102-486)*

m. *Energy Policy Act 2005 (Public Law 109-058)*

n. *Federal Facility Compliance Act* (42 U.S.C. 6903, 6908, 6924, 6927, 6939 c-e, 6961, 6965)

o. *Federal Insecticide, Fungicide, and Rodenticide Act* (7 U.S.C. 136, et. seq.)

p. *Federal Water Pollution Control Act Amendments of 1972* (33 U.S.C. 1251, et. seq.)

q. *Flood Disaster Protection Act of 1973* (*Public Law 93-234, 87 Stat. 975*)

r. *Hazardous Materials Transportation Act* (49 U.S.C. 5101, et. seq.)

s. *Historic Sites Act of 1935* (16 U.S.C. 461-467)

t. *National Energy Conservation Policy Act of 1978* (*Public Law 95-619*)

u. *National Environmental Policy Act* (42 U.S.C. 4321, et. seq.)

v. *National Flood Insurance Act of 1968* (42 U.S.C. 4001, et. seq.)

w. *National Historic Preservation Act of 1966*, as amended (16 U.S.C. 470, et. seq.)

x. *National Protection, Research, and Sanctuaries Act of 1972* (33 U.S.C. 1401, et. seq.)

y. *National Maritime Heritage Act of 1994* (16 U.S.C. 5401-5408)

z. *Native American Graves Protection and Repatriation Act of 1990* (25 U.S.C. 3001-3013)

aa. *Occupational Safety and Health Act* (29 U.S.C. 651, et. seq.)

bb. *Oil Pollution Act of 1990* (33 U.S.C. 2701, et. seq.)

cc. *Public Buildings Act of 1959*, as amended (40 U.S.C. 601-619)

dd. *Resource Conservation and Recovery Act* (42 U.S.C. 6901, et. seq.)

ee. *Rivers and Harbors Act of 1899* (33 U.S.C. 403)

ff. *Safe Drinking Water Act* (42 U.S.C. 300)

gg. *Toxic Substances Control Act* (15 U.S.C. 2601, et. seq.)

hh. *Underground Storage Tank Compliance Act of 2005* (42 U.S.C.6901)

ii. *Water Quality Standards and Implementation Plans* (33 U.S.C. 1313)

CODE OF FEDERAL REGULATIONS (CFR)

a. 10 CFR 102-34 Motor Vehicle Management

b. 10 CFR 102-74 Energy Conservation

c. 10 CFR 434 Energy Code for New Federal Commercial and Multi-Family High-Rise Residential Buildings

d. 10 CFR 435 Energy Conservation Voluntary Performance Standards for New Buildings

e. 10 CFR 436 Federal Energy Management

f. 29 CFR 1910 Occupational Safety and Health Standards

g. 29 CFR 1926 Safety and Health Regulations for Construction

h. 33 CFR Navigation and Navigable Waters

i. 36 CFR 60 National Register of Historic Places

j. 36 CFR 65 National Historic Landmarks Program

k. 36 CFR 68 The Secretary of Interior's Standards for the Treatment of Historic Properties

l. 36 CFR 79 Curation of Federally-Owned and Administered Archaeology Collections

m. 36 CFR 800 Protection of Historic Properties

n. 40 CFR Protection of Environment

o. 40 CFR 121-125 State Certification of Activities Requiring a Federal License or Permit

p. 40 CFR 141 National Primary Drinking Water Standards

q. 40 CFR 143 National Secondary Drinking Water Regulations

r. 40 CFR 146 Underground Injection Control Program Criteria and Standards

s. 40 CFR 280 Technical Standards and Corrective Actions Requirements for Owners and Operators of Underground Storage Tanks

t. 40 CFR 300 National Oil and Hazardous Substances Pollution Contingency Plan

u. 40 CFR 745 Lead-Based Paint Poisoning Prevention in Certain Residential Structures

v. 41 CFR Energy Conservation

w. 49 CFR Transportation

x. 50 CFR Wildlife and Fisheries

EXECUTIVE ORDERS

a. Executive Order 11514, *Protection and Enhancement of Environmental Quality* (March 5, 1970)

b. Executive Order 11988, *Floodplain Management* (May 24, 1977)

c. Executive Order 11990, *Protection of Wetlands* (May 24, 1977)

d. Executive Order 11991, *Protection and Enhancement of Environmental Quality* (May 24, 1977)

e. Executive Order 12375, *Motor Vehicles (August 4, 1982)*

f. Executive Order 12580, *Superfund Implementation* (October 18, 1991)

g. Executive Order 12777, *Federal Water Pollution Control and Oil Pollution Act Implementation* (October 22, 1991)

h. Executive Order 12844, *Federal Use of Alternative Fueled Vehicles* (April 21, 1993)

i. Executive Order 12902, *Energy Efficiency and Water Conservation at Federal Facilities* (May 8, 1994)

j. Executive Order 13006, *Locating Federal Facilities on Historic Properties in Our Nation's Central Cities* (May 21, 1996)

k. Executive Order 13007, *Indian Sacred Sites* (May 24, 1996)

l. Executive Order 13221, *Energy Efficient Standby Power Devices (*July 31, 2001)

m. Executive Order 13287, *Preserve America* (March 3, 2003)

n. Executive Order 13423, *Strengthening Federal Environmental, Energy, and Transportation Management* (January 24, 2007)

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